

TERMS AND CONDITIONS FOR THE SALE OF GOODS AND SERVICES**DEFINITIONS****1 DEFINITIONS**

1.1 In these Conditions the following definitions apply:

Business Day means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;

Certificate of Completion means a certificate issued by the Supplier to the Customer that confirms that the Services are complete;

CDM Regulations means the Construction (Design and Management) Regulations, SI 2015/51;

Completion shall have the meaning given to it in clause 11.2, and Completed and similar expressions shall be construed accordingly;

Conditions means the Supplier's terms and conditions of sale as set out in this document;

Confidential Information means any commercial, financial or technical information, information relating to the Deliverables, documents (including without limitation drawings, plans, diagrams, designs, pictures, schedules and reports), know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by the Supplier in performing its obligations under, or otherwise pursuant to the Contract;

Contract means the agreement between the Supplier and the Customer for the sale and purchase of the Deliverables incorporating these Conditions and the Order;

Control has the meaning given to it in section 1124 of the Corporation Tax Act 2010;

Customer means the person who purchases the Deliverables from the Supplier and whose details are set out in the Order;

Customer Related Party means (a) an officer, servant or agent of the Customer, or any officer, servant or agent of such a person; (b) any sub-contractor of the Customer and any of their officers, servants or agents; and (c) any person on or at the Location at the express or implied invitation of the Customer;

Customer Default means any breach by the Customer of its obligations under the Contract;

Deliverables means the Goods or Services or both as the case may be;

Force Majeure means an event or sequence of events beyond the Supplier's reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service or material required for the performance of the Contract; strike, lockout or boycott or other industrial action including strikes or other industrial disputes involving the Supplier's workforce;

Goods: means the goods and other physical material set out in the Order and to be supplied by the Supplier to the Customer;

Good Industry Practice means the exercise of that degree of professionalism, skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced company engaged in the same type of activity under the same or similar circumstances;

Intellectual Property Rights means copyright, patents, know-how, trade secrets, trademarks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case (a) whether registered or not (b) including any applications to protect or register such rights (c) including all renewals and extensions of such rights or applications (d) whether vested, contingent or future (e) to which the relevant party is or may be entitled, and (f) in whichever part of the world existing;

Milestone means an activity, process or outcome described in the Order relating to the Deliverables under that Order;

Milestone Payment means the percentage of the Price described in the Order as being payable by the Customer when the corresponding Milestones have been achieved by the Supplier;

Location means the address(es) for the delivery of the Goods and performance of the Services as set out in the Order;

Losses means all damages, liabilities, demands, costs, expenses, claims, actions, and proceedings (including all consequential, direct, indirect, special or incidental loss or punitive damages or loss, legal and professional fees, costs and expenses, fines, penalties, interest and loss of profit or any other form of economic loss (including loss of reputation));

Order means the Customer's order for the Deliverables as set out in the Supplier's order form and including the documents (if any) referred to therein;

Price has the meaning given in clause 5.1;

Restricted Period means the term of the Contract and 12 months thereafter;

Restricted Person means any person employed or engaged by the Supplier at any time during the term of the Contract who has or had material contact or dealings with the Customer;

Scope of Works means the description and/or specification of the Deliverables set out or referred to in the Order;

Services means the services set out in the Order and to be supplied by the Supplier to the Customer;

Schedule of Rates means the rates set out in the Order as amended from time to time;

Snagging means minor items of incomplete work or minor defects and/or blemishes, the existence, completion or rectification of which would not, in the reasonable opinion of the Supplier, materially interfere with the beneficial use and/or enjoyment of the Deliverables;

Supplier means Wright Brothers Industrial Services Limited (trading as Wright Engineering);

VAT means value added tax under Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Deliverables;

Warranty Period means the period commencing on the delivery of the Goods or Completion of the Services and expiring 12 months thereafter; and

Wear Parts: means any part that is subject to general wear and tear and is replaced as required to maintain optimal performance.

- 1.2 In these Conditions, unless the context otherwise requires:
 - 1.2.1 a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);
 - 1.2.2 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of these Conditions;
 - 1.2.3 a reference to a 'party' means either the Supplier or the Customer and includes that party's personal representatives, successors and permitted assigns;
 - 1.2.4 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
 - 1.2.5 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
 - 1.2.6 words in the singular include the plural and vice versa and a reference to a gender includes each other gender;
 - 1.2.7 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
 - 1.2.8 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;
 - 1.2.9 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time and includes all subordinate legislation made under that legislation.

APPLICATION AND PRIORITY

2 APPLICATION

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms and conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.
- 2.3 Marketing and other promotional material relating to the Deliverables are illustrative only and do not form part of the Contract.

3 PRIORITY

- 3.1 The order of priority between the documents of the Contract shall be as follows (descending):
 - 3.1.1 the Order;
 - 3.1.2 the Conditions.

- 3.2 If there is an inaccuracy, omission, conflict, ambiguity, divergence and/or discrepancy within one of the documents or between any of the documents of the Contract, the Supplier shall decide how it shall be dealt with.

PRICE AND PAYMENT

4 CREDIT TERMS

The Supplier may set and vary credit limits and payment terms from time to time and withhold all further Deliverables without liability to the Customer if the Customer exceeds such credit limit or payment terms.

5 PRICE

- 5.1 The price for the Deliverables shall be as set out in the Order or, in default of such provision, shall be calculated in accordance with the Supplier's Schedule of Rates.
- 5.2 The Price is exclusive of VAT (or equivalent sales tax) and the Customer shall pay any applicable VAT (or equivalent sales tax) to the Supplier on receipt of a valid VAT invoice.
- 5.3 The Supplier shall be entitled to increase the Price with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the Deliverables (including without limitation an increase in cost of raw materials and exchange rate fees etc.) or there is any variation in the quantity or Scope of Works of the Deliverables by the Customer.

6 PAYMENT

- 6.1 The Supplier shall invoice the Customer:
- 6.1.1 at any time after delivery of the Goods or Completion of the Services; or
- 6.1.2 where Milestone Payments are set out in the Order, the Supplier may issue its invoices for Milestone Payments upon the achievement of the corresponding Milestone.
- 6.2 The Customer shall pay all invoices:
- 6.2.1 within 30 days of the date of each invoice; and
- 6.2.2 in full and cleared funds to the bank account nominated by the Supplier.
- 6.3 All costs of transmission or currency conversion shall be borne by the Customer.
- 6.4 Time of payment is of the essence.

7 LATE PAYMENT

- 7.1 Where sums due under the Contract are not paid in full by the due date, the Supplier may, without limiting its other rights and remedies:
- 7.1.1 suspend all or part of the supply of the Deliverables under the Contract or any other contract between the parties;
- 7.1.2 charge interest on such sums (accruing on a daily basis from the due date for payment until the actual date of payment, whether before or after judgment). Such interest shall be calculated at a rate of 8% per annum above the Bank of England base rate from time to time in force;
- 7.1.3 charge compensation on each overdue sum at the rate of:
- 7.1.3.1 £70 for a sum of less than £1000;
- 7.1.3.2 £110 for a sum of more than £1000 but less than £10,000;
- 7.1.3.3 £150 for a sum of more than £10,000.
- 7.2 The parties agree that the provisions of clause 7.1 constitute a substantial remedy for the purposes of section 9(1) of the Late Payment of Commercial Debts (Interest) Act 1998.

8 SET-OFF

- 8.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Supplier has with the Customer.
- 8.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

DELIVERABLES

- GOODS -

9 DELIVERY

- 9.1 An Order shall specify whether the Goods are to be:
- 9.1.1 delivered by the Supplier, or by a carrier appointed by the Supplier, to the Location on the date(s) specified in the Order;
- 9.1.2 made available for collection by the Customer at the Supplier's, or carrier's, premises set out in the Order (as the case may be). The Customer shall collect the Goods within the period specified in the Order.
- 9.2 The Goods shall be deemed delivered:
- 9.2.1 if delivered by the Supplier under clause 9.1.1, on arrival of the Goods at the Location;
- 9.2.2 if delivered by a carrier under clause 9.1.1, on delivery of the Goods by the Supplier to the carrier; or
- 9.2.3 if collected by the Customer under clause 9.1.2, when the Supplier makes the Goods available for collection at the Supplier's, or carrier's, premises (as the case may be).
- 9.3 The Goods may be delivered in instalments. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 9.4 Time of delivery is not of the essence. The Supplier shall use its reasonable endeavours to meet delivery dates, but such dates are approximate only.
- 9.5 Unless the parties agree otherwise, packaging material is to be promptly returned to the Supplier at the Customer's expense.
- 9.6 If the Customer fails to accept delivery of the Goods the Supplier may store and insure the Goods pending delivery, and the Customer shall pay all costs and expenses incurred by the Supplier in doing so.

10 RISK AND TITLE

- 10.1 Risk in the Goods shall pass to the Customer on delivery.
- 10.2 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Goods;
- 10.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 10.3.1 hold the Goods as bailee for the Supplier; and
- 10.3.2 take all reasonable care of the Goods and keep them in the condition in which they were delivered.
- 10.4 If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clauses 22.1.1 to 22.1.4 or 22.2.1 to 22.2.11, the Supplier may:
- 10.4.1 require the Customer at the Customer's expense to re-deliver the Goods to the Supplier; and
- 10.4.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

- SERVICES -

11 PERFORMANCE OF THE SERVICES

- 11.1 The Services shall be performed by the Supplier at the Location on the date(s) specified in the Order.
- 11.2 The Services shall be deemed to have been Completed in accordance with the terms of the Contract (save for any Snagging) upon delivery of the Certificate of Completion (Completion).
- 11.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with applicable laws, safety requirement or which do not affect the nature or quality of the Services.
- 11.4 Time of performance shall not be of the essence. The Supplier shall use its reasonable endeavours to perform the Services in accordance with any commencement or end dates specified for performance in the Order. Services which do not have specified commencement or end dates shall be performed by the Supplier within a reasonable period of time.

LEGAL COMPLIANCE

12 COMPLIANCE WITH LAW

- 12.1 Each party shall comply with all laws applicable to it and shall maintain such authorisations and other approvals, permits and consents as are required of it from time to time to perform its obligations under or in connection with the Contract.
- 12.2 Each party shall, when reasonably requested by the other party, inform the other party of the steps taken by it to comply with relevant laws.

13 CDM REGULATIONS

The Supplier shall perform the Services in accordance with all obligations imposed on it as Contractor or Principal Contractor and/or Designer or Principal Designer under the CDM Regulations (insofar as they apply to the Contract).

14 QUALIFICATIONS

The Customer acknowledges that it has been provided with all such information as it may require relating to the qualifications held by the Supplier's personnel and that these qualifications are suitable to enable the Supplier to meet its obligations under the Contract and will be accepted by a Customer Related Party or any other third party person that is responsible for health and safety and/or management of the Location.

WARRANTY

15 WARRANTY

CUSTOMER

- 15.1 The Customer warrants that:
- 15.1.1 it has the right, power and authority to enter into the Contract and grant to the Supplier the rights (if any) contemplated under the Contract; and
- 15.1.2 all information, documents, materials, data or other items provided by the Customer pursuant to the Contract do not infringe on the Intellectual Property Rights of any third party.

SUPPLIER

- 15.2 The Supplier warrants that the Deliverables shall:
- 15.2.1 conform in all material respects to any sample, their description and to the Scope of Works;
- 15.2.2 be free from material defects in design, material and workmanship;
- 15.2.3 if Goods, be of satisfactory quality within the meaning of the Sales of Goods Act 1979; and
- 15.2.4 if Services, be supplied in accordance with Good Industry Practice.

SNAGGING AND RECTIFICATION

- 15.3 During the Warranty Period, the Supplier shall, at its own cost and within a reasonable time complete or make good any Snagging and correct, repair, remedy or re-perform the Deliverables that do not comply with clause 15.2 (but excluding Wear Parts), provided that the Customer:
- 15.3.1 serves a written notice on the Supplier;
- 15.3.2 such notice specifies that some or all of the Deliverables do not comply with clause 15.2 and identifying in sufficient detail the nature and the extent of the defects; and
- 15.3.3 gives the Supplier a reasonable opportunity to examine the claim of the defective Deliverables.

WARRANTY LIABILITY

- 15.4 The Supplier shall not be liable for any failure of the Deliverables to comply with the provisions of clause 15.2 where the same arises directly or indirectly and whether in whole or in part as a result of:
- 15.4.1 a breach by the Customer of any of its obligations under the Contract;
 - 15.4.2 an event of Force Majeure;
 - 15.4.3 any design, specification or requirement of the Customer;
 - 15.4.4 wear and tear, wilful damage or negligence;
 - 15.4.5 modification of the Deliverables without the Supplier's prior written consent; and
 - 15.4.6 a failure to comply with the Supplier's instructions on installation, operation, storage, maintenance or modification.
- 15.5 Except as set out in this clause 15:
- 15.5.1 the Supplier gives no warranty and makes no representations in relation to the Deliverables; and
 - 15.5.2 shall have no liability for their failure to comply with the warranty in clause 15.2, and all warranties and conditions (including the conditions implied by sections 12 - 16 of the Supply of Goods and Services Act 1982 and sections 13 - 15 of the Sales of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.

OBLIGATIONS AND LIABILITIES

16 CUSTOMER OBLIGATIONS

- 16.1 The Customer shall at all times and in all respects:
- 16.1.1 perform its obligations in accordance with the terms of the Contract;
 - 16.1.2 ensure that the Order is complete and accurate;
 - 16.1.3 co-operate with and ensure that a Customer Related Party co-operates with the Supplier in all matters arising under the Contract or otherwise relating to the delivery or performance of the Deliverables;
 - 16.1.4 make the Location accessible to the Supplier as may be necessary for the Supplier to comply with its obligations under the Contract. Unless otherwise notified, the Supplier will deliver or perform the Deliverables between the hours of 7.00am and 4.00pm, Monday to Friday.
 - 16.1.5 if applicable to the Order, ensure that the Location has hard ground suitable for off-loading, storage and sub-assembly;
 - 16.1.6 take all necessary measures to ensure the safety or security of the Location and to keep unauthorised persons off the Location;
 - 16.1.7 unless otherwise stated in the Order, provide welfare facilities and temporary utilities (including electricity, gas, telecommunications, water and any other services the Supplier may reasonably require);
 - 16.1.8 inform the Supplier in a timely manner of any matters (including any health, safety or security requirements) which may affect the delivery or performance of the Deliverables; and
 - 16.1.9 ensure that all tools, equipment, materials and other items provided to the Supplier to deliver or perform the Deliverables are suitable, in good condition and in good working order.

17 LIABILITY EVENTS

- 17.1 The Supplier shall not be liable for any delay or failure of delivery of the Goods or Completion of the Services caused by a Customer Default, any act or omission of a Customer Related Party or an event of Force Majeure.
- 17.2 If the Supplier is prevented or delayed in performing its obligations under the Contract by a Customer Default or any act or omission of a Customer Related Party, the Supplier (without prejudice to its other rights and remedies):
- 17.2.1 may suspend delivery of the Goods or performance of the Services until the matter is remedied; and
 - 17.2.2 shall not be liable for any Losses sustained by the Customer as a result of such suspension.

18 INDEMNITY

- 18.1 The Customer shall indemnify and keep indemnified on demand the Supplier from and against all Losses suffered or incurred by it arising out of or in connection with:
- 18.1.1 a Customer Default;
 - 18.1.2 any act or omission of a Customer Related Party;

- 18.1.3 any third-party claim relating to the provision, supply or use of any Deliverables to the extent that such claim relates to any act, neglect or default of the Customer.
- 18.2 Where the Customer is liable to make a payment under clause 18.1 and the payment itself is liable to taxation in the hands of the Supplier then the amount of the indemnity payment shall be deemed to be increased so as to ensure that the Supplier receives (after any applicable taxes have been paid) the same amount as it would have received had no such taxes been levied.

19 LIMITATION OF LIABILITY - THE ATTENTION OF THE CUSTOMER IS DRAWN TO THIS CLAUSE

- 19.1 The extent of the Supplier's liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 19.
- 19.2 Subject to clause 19.5, the Supplier's total liability shall not exceed 125% of the total Price payable under the Contract.
- 19.3 Subject to clause 19.5, the Supplier shall not be liable for consequential, indirect or special losses.
- 19.4 Subject to clause 19.5, the Supplier shall not be liable for any of the following (whether direct or indirect):
- 19.4.1 loss of profit;
 - 19.4.2 loss of use;
 - 19.4.3 loss of production;
 - 19.4.4 loss of contract;
 - 19.4.5 loss of opportunity;
 - 19.4.6 loss of savings, discount or rebate (whether actual or anticipated);
 - 19.4.7 harm to reputation or loss of goodwill.
- 19.5 Notwithstanding any other provision of the Contract, the liability of the Supplier shall not be limited in any way in respect of the following:
- 19.5.1 death or personal injury caused by negligence;
 - 19.5.2 fraud or fraudulent misrepresentation;
 - 19.5.3 any other losses which cannot be excluded or limited by applicable law; and
 - 19.5.4 any losses caused by wilful misconduct.

OTHER COMMERCIAL MATTERS

20 NON-SOLICITATION

- 20.1 In order to protect the legitimate business interests of the Supplier, during the Restricted Period the Customer shall not, either directly or indirectly, by or through itself, its affiliate, its agent or otherwise, or in conjunction with its affiliate, its agent or otherwise, whether for its own benefit or for the benefit of any other person:
- 20.1.1 solicit, entice or induce, or endeavour to solicit, entice or induce, any Restricted Person of the Supplier with a view to employing or engaging the Restricted Person; or
 - 20.1.2 employ or engage or offer to employ or engage a Restricted Person of the Supplier, without the written consent of the Supplier.
- 20.2 In the event of a breach of clause 20.1, which results in a Restricted Person leaving the Supplier and being employed or engaged by the Customer, the Customer shall pay to the Supplier by way of liquidated damages an amount equivalent to 20% of the annual remuneration paid by the Supplier to the Restricted Person. The liquidated damages are a genuine pre-estimate of the loss that the Supplier will suffer, and the parties agree that they represent a reasonable sum to be paid by the Customer in the circumstances.

21 CONFIDENTIALITY AND ANNOUNCEMENTS

- 21.1 The Customer shall keep confidential the Confidential Information of the Supplier and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
- 21.1.1 any information that was in the public domain at the date of the Contract;
 - 21.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;

- 21.1.3 any information which is independently developed by the Customer without using information supplied by the Supplier; or
- 21.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- 21.2 This clause shall remain in force for a period of five years from the date of the Contract and, if longer, three years after termination of the Contract.
- 21.3 No announcement or other public disclosure concerning the Contract, or any matters contained in it, shall be made by the Customer without the Supplier's prior written consent except as required by law, any court, any governmental, regulatory or supervisory authority or any authority of competent jurisdiction.

TERMINATION

22 TERMINATION

- 22.1 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if:
 - 22.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;
 - 22.1.2 the Customer commits a material breach of the Contract which is not remedied within 7 days of receiving written notice of such breach;
 - 22.1.3 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.
- 22.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:
 - 22.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
 - 22.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;
 - 22.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
 - 22.2.4 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
 - 22.2.5 has a resolution passed for its winding up;
 - 22.2.6 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding up or an administration order is made against it;
 - 22.2.7 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within 7 days of that procedure being commenced;
 - 22.2.8 has a freezing order made against it;
 - 22.2.9 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items;
 - 22.2.10 is subject to any events or circumstances analogous to those in clauses 22.2.1 to 22.2.9 in any jurisdiction;
 - 22.2.11 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 22.2.1 to 22.2.10 including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
- 22.3 The Supplier may terminate the Contract at any time if the Customer undergoes a change of Control or if it is reasonably anticipated that it shall undergo a change of Control within two months.
- 22.4 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause 22, it shall immediately notify the Supplier in writing.

23 EFFECTS OF TERMINATION

- 23.1 On termination of the Contract for any reason:
 - 23.1.1 the Supplier shall immediately stop the delivery of the Goods or the performance of the Services;
 - 23.1.2 the Supplier shall promptly invoice the Customer for the Deliverables not yet invoiced;
 - 23.1.3 the parties shall within 10 Business Days return any materials of the other party in its possession or control; and
 - 23.1.4 all rights granted to the Customer under the Contract shall immediately cease.
- 23.2 Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 23.3 Clauses which by their terms or intent are to survive the termination of the Contract will do so.

GENERAL

24 NOTICES

- 24.1 Any notice or other communication given by a party under these Conditions shall:
- 24.1.1 be in writing and in English;
 - 24.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by e-mail); and
 - 24.1.3 be sent to the relevant party at the address set out in the Order.
- 24.2 Notices may be given, and are deemed received:
- 24.2.1 by hand: on receipt of a signature at the time of delivery;
 - 24.2.2 by Royal Mail Recorded Signed For or first-class post: on the second Business Day after posting;
 - 24.2.3 by Royal Mail International Tracked & Signed post: on the fourth Business Day after posting;
 - 24.2.4 by fax: on receipt of a transmission report from the correct number confirming uninterrupted and error free transmission;
 - 24.2.5 by e-mail: on receipt of a delivery e-mail from the correct address.
- 24.3 Any changes to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 24.1 and shall be effective:
- 24.3.1 on the date specified in the notice as being the date of such change; or
 - 24.3.2 if no date is specified, 7 Business Days after the notice is deemed to be received.
- 24.4 All references to time are to the local time at the place of deemed receipt.
- 24.5 This clause does not apply to notices given in legal proceedings or arbitration.

25 FURTHER ASSURANCE

The Customer shall at the request of the Supplier, and at the cost of the Customer, do all acts and execute all documents which are necessary to give full effect to the Contract.

26 CUMULATIVE REMEDIES

The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.

27 EQUITABLE RELIEF

The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

28 NO PARTNERSHIP OR AGENCY

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than a contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

29 LANGUAGE

The language of the Contract is English. All documents, notices, waivers and other written communications between the parties in relation hereto will be in English. If the Contract and any document relating to it is translated, the English version shall prevail.

30 VARIATION

Any amendment or variation to the Contract shall only be made by prior written agreement (including e-mail) between the parties and, in particular, any amendment or variation to these Conditions shall either be in writing

and signed by the parties or, if made by e-mail, must include an express statement of an intention to amend or vary these Conditions which is agreed by the Supplier.

31 ASSIGNMENT AND SUB-CONTRACTING

- 31.1 Either party may assign any or all of its rights under the Contract, provided that it gives the other party prior written notice of the assignment including the identity of the assignee.
- 31.2 Either party may sub-contract or delegate (but not otherwise deal with) any or all of its obligations under the Contract.

32 WAIVER

- 32.1 No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 32.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract shall prevent any future exercise of it or the exercise of any other right, power or remedy.
- 32.3 A waiver of any term, provision, condition or breach of the Contract shall only be effective if given in writing and signed by the waiving party, and then only in the instance and for the purpose for which it is given.

33 SEVERANCE

- 33.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 33.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision, legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

34 ENTIRE AGREEMENT

- 34.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 34.2 Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

35 THIRD PARTY RIGHTS

The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

36 GOVERNING LAW AND JURISDICTION

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