



Terms & Conditions

Sept 2023

TERMS AND CONDITIONS

The Client's attention is particularly drawn to the provisions of clause 11.

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Additional Works: work carried out which is not included in the Contract Sum.

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

Charges: the charges payable by the Client for the supply of the Goods and Services in accordance with clause 8

Client: as set out in the Purchase Order.

Client Works - as set out in the Purchase Order.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.7.

Contract: the contract between the Contractor and the Client for the supply of Goods and Services in accordance with the Purchase Order and these Conditions.

Contract Sum: as set out in the Purchase Order.

Contractor: as set out in the Purchase Order

Contractor Materials: has the meaning set out in clause 7.1(g).

Deliverables: The Goods and Services supplied by the Contractor to the Client as set out in the Client Works.

Force Majeure Event: has the meaning given to it in clause 14

Goods: the goods (or any part of them) set out in the Purchase Order.

Goods Specification: any specification for the Goods, including any relevant plans or drawings that are agreed in writing by the Contractor and the Client.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Out of Hours: any service that is provided by the Contractor to the Client that does not take place between 8.00am – 6.00 pm Monday to Friday (excluding Bank Holidays)

Practical Completion: completion of the Client Works by the Contractor upon which the Contractor will issue a statement of practical completion and practical completion of the Client Works shall be deemed for all purposes of this Contract to have taken place on the date stated in the statement.

Purchase Order: The Client's order for the supply of Goods and Services as set out in the purchase order annexed hereto.

Services: the services, including the Deliverables, supplied by the Contractor to the Client as set out in the Purchase Order.

Scope of Workss: the range of work outlined by the Contractor or Client which formed the basis of the Purchase Order

Specification: the description or specification of the Services provided in writing by the Contractor to the Client.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1 The Purchase Order constitutes an offer by the Client to purchase Goods and Services in accordance with these Conditions.
- 2.2 The Purchase Order shall only be deemed to be accepted when the Contractor issues written acceptance of the Purchase Order to the Client at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Contract constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Contractor which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by the Contractor, and any descriptions or illustrations contained in the Contractor's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

- 2.6 Any quotation given by the Contractor shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.
- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. GOODS

- 3.1 The Goods are described in the Purchase Order and any Goods Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Client, the Client shall indemnify the Contractor against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Contractor in connection with any claim made against the Contractor for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Client's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Contractor reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.
- 3.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Contractor shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Client's failure to provide the Contractor with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.5 If the Contractor fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Client in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Contractor shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event the Client's failure to provide the Contractor with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 3.6 If the Client fails to accept or take delivery of the Goods within 7 Business Days of the Contractor notifying the Client that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Contractor's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the 7th Business Day following the day on which the Contractor notified the Client that the Goods were ready; and
 - (b) the Contractor shall store the Goods until delivery takes place, and charge the Client for all related costs and expenses (including insurance).
- 3.7 If 7 Business Days after the Contractor notified the Client that the Goods were ready for delivery the Client has not accepted delivery of them, the Contractor may resell or otherwise dispose of part or all of the Goods and, after

deducting reasonable storage and selling costs, account to the Client for any excess over the price of the Goods or charge the Client for any shortfall below the price of the Goods.

4. QUALITY OF GOODS

4.1 The Contractor warrants that on delivery and for a period of 6 months from the date of delivery (warranty period) the Goods shall:

- (a) conform with their description and any applicable Goods Specification; and
- (b) be free from material defects in design, material and workmanship;

4.2 Subject to clause 4.3, if:

- (a) the Client gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 4.1;
- (b) the Contractor is given a reasonable opportunity of examining such Goods; and
- (c) the Client (if asked to do so by the Contractor) returns such Goods to the Contractor's place of business at the Client's cost,

the Contractor shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

4.3 The Contractor shall not be liable for the Goods' failure to comply with the warranty in clause 4.1 if:

- (a) the Client makes any further use of such Goods after giving a notice in accordance with clause 4.2;
- (b) the defect arises because the Client failed to follow the Contractor's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- (c) the defect arises as a result of the Contractor following any drawing, design or Goods Specification supplied by the Client;
- (d) the Client alters or repairs such Goods without the written consent of the Contractor;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; and
- (f) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

4.4 Except as provided in this clause 4, the Contractor shall have no liability to the Client in respect of the Goods' failure to comply with the warranty set out in clause 4.1.

4.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Contractor under clause 4.2.

5. TITLE AND RISK

- 5.1 The risk in the Goods shall pass to the Client on completion of delivery
- 5.2 Title to the Goods shall not pass to the Client until the earlier of:
- (a) the Contractor receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Contractor has supplied to the Client in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
 - (b) the Client resells the Goods, in which case title to the Goods shall pass to the Client at the time specified in clause 5.4.
- 5.3 Until title to the Goods has passed to the Client, the Client shall:
- (a) store the Goods separately from all other goods held by the Client so that they remain readily identifiable as the Contractor's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Contractor's behalf from the date of delivery;
 - (d) notify the Contractor immediately if it becomes subject to any of the events listed in clause 12.1(b) to clause 12.1(m); and
 - (e) give the Contractor such information relating to the Goods as the Contractor may require from time to time.
- 5.4 If before title to the Goods passes to the Client the Client becomes subject to any of the events listed in clause 12.1(a) to clause 12.1(l), then, without limiting any other right or remedy the Contractor may have:
- (a) the Client's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
 - (b) the Contractor may at any time:
 - (i) require the Client to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Client fails to do so promptly, enter any premises of the Client or of any third party where the Goods are stored in order to recover them.

6. SUPPLY OF SERVICES

- 6.1 The Contractor shall supply the Services to the Client in accordance with the Specification in all material respects.
- 6.2 The Contractor shall use all reasonable endeavours to meet any performance dates for the Services specified in the Purchase Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

- 6.3 The Contractor shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Contractor shall notify the Client in any such event.
- 6.4 The Contractor warrants to the Client that the Services will be provided using reasonable care and skill.
- 6.5 If any defects, shrinkages or other faults appear within 6 months of Practical Completion (rectification period) due to any failure of the Contractor to comply with its obligations under this Contract:
- (a) Such defects, shrinkages and other faults shall be specified by the Client in a schedule of defects which it shall deliver to the Contractor as an instruction not later than the expiry of the rectification period; and
 - (b) Notwithstanding clause 6.5(a), the Client may whenever it considers it necessary issue instructions requiring any such defect, shrinkage or other fault to be made good, provided no instructions under this clause 6.5(b) shall be issued after delivery of a schedule of defects or after the expiry of the relevant rectification period
- 6.6 Within a reasonable time after receipt of such instructions, the defects, shrinkages and other faults shall be made good by the Contractor and the Client is not to otherwise instruct an alternative contractor to rectify the defects, shrinkages and other faults without the prior written consent of the Contractor.
- 6.7 Clause 6.6 shall also apply, all other things being equal, to:
- (a) any items identified on any snagging list issued by or on behalf of the Client within 14 days of Practical Completion;
 - (b) any defects, shrinkages or other faults at Practical Completion; and
 - (c) any incomplete work remaining at Practical Completion.

7. CLIENT'S OBLIGATIONS

- 7.1 The Client shall:
- (a) ensure that the terms of the Purchase Order and any information it provides in the Specification are complete and accurate;
 - (b) co-operate with the Contractor in all matters relating to the Services;
 - (c) provide the Contractor, its employees, agents, consultants and subcontractors, with access to the Client's premises, office accommodation and other facilities as reasonably required by the Contractor to provide the Services;
 - (d) provide the Contractor with such information and materials as the Contractor may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
 - (e) prepare the Client's premises for the supply of the Services;
 - (f) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start; and

- (g) keep and maintain all materials, equipment, documents and other property of the Contractor (**Contractor Materials**) at the Client's premises in safe custody at its own risk, maintain the Contractor Materials in good condition until returned to the Contractor, and not dispose of or use the Contractor Materials other than in accordance with the Contractor's written instructions or authorisation;

7.2 If the Contractor's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):

- (a) the Contractor shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent the Client Default prevents or delays the Contractor's performance of any of its obligations;
- (b) the Contractor shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Contractor's failure or delay to perform any of its obligations as set out in this clause 7.2; and
- (c) the Client shall reimburse the Contractor on written demand for any costs or losses sustained or incurred by the Contractor arising directly or indirectly from the Client Default.

8. CONTRACT SUM, ADDITIONAL WORKS AND PAYMENT

8.1 The Client shall pay the Contract Sum, for the Goods and Services provided by the Contractor, in accordance with the terms outlined in the Purchase Order.

8.2 Charges which have not been included in the Contract Sum may be issued to the Client where:

- (a) the Client has requested that Additional Work is carried out which has not been included in the Purchase Order;
- (b) the Contractor requires Additional Work to be carried out in order to complete the Contract, which was not included in the Purchase Order; and
- (c) the Contractor has been ordered to carry out Out of Hours work which was not agreed in the Purchase Order. Labour carried out Out of Hours that has not been included in the Purchase Order will be charged at the Contractor's premium rate in force from time to time. Should the Client wish to see an up to date schedule of premium rates they should contact the Contractor.

8.3 Any Additional Work and/or Out of Hours Work (as outlined in clause 8.2) must be agreed and signed off by both the Client and the Contractor before that work commences.

8.4 The Contractor reserves the right to increase the price of the Goods, by giving notice to the Client at any time before delivery, to reflect any increase in the cost of the Goods to the Contractor that is due to:

- (i) any factor beyond the control of the Contractor (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

- (ii) any request by the Client to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
- (iii) any delay caused by any instructions of the Client in respect of the Goods or failure of the Client to give the Contractor adequate or accurate information or instructions in respect of the Goods.

8.5 The Contractor shall invoice the Client in accordance with the Purchase Order.

8.6 The Client shall pay each invoice submitted by the Contractor:

- (a) within 14 days of the date of each invoice; and
- (b) in full and in cleared funds to the bank account nominated in the Purchase Order by the Contractor, and

time for payment shall be of the essence of the Contract.

8.7 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Contractor to the Client, the Client shall, on receipt of a valid VAT invoice from the Contractor, pay to the Contractor such additional amounts in respect of VAT as are chargeable on the supply of the Goods or Services at the same time as payment is due for the supply of the Goods or Services.

8.8 If the Client fails to make any payment due to the Contractor under the Contract by the due date for payment, then the Client shall pay interest on the overdue amount at the rate of 4% per cent per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount.

8.9 The Client shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Contractor may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by the Contractor to the Client.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Contractor.

9.2 The Client acknowledges that, in respect of any third party Intellectual Property Rights, the Client's use of any such Intellectual Property Rights is conditional on the Contractor obtaining a written licence from the relevant licensor on such terms as will entitle the Contractor to license such rights to the Client.

9.3 All Contractor Materials are the exclusive property of the Contractor.

10. CONFIDENTIALITY

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 10 shall survive termination of the Contract.

11. LIMITATION OF LIABILITY: THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

11.1 Nothing in these Conditions shall limit or exclude the Contractor's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) defective products under the Consumer Protection Act 1987

11.2 Subject to clause 11.1:

- (a) the Contractor shall under no circumstances whatever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Contractor's total liability to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £2,000.00.

11.3 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

11.4 This clause 11 shall survive termination of the Contract.

12. TERMINATION

12.1 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - (b) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - (d) the other party (being an individual) is the subject of a bankruptcy petition or order;
 - (e) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - (f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
 - (g) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - (i) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.1(a) to clause 12.1(h) (inclusive);
 - (j) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
 - (k) the other party's financial position deteriorates to such an extent that in the Contractor's opinion the Client's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
 - (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 12.2 Without limiting its other rights or remedies, the Contractor may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 7 days after being notified in writing to do so.
- 12.3 Without limiting its other rights or remedies, the Contractor may suspend provision of the Services or all further deliveries of Goods under the Contract or any other contract between the Client and the Contractor if the Client

becomes subject to any of the events listed in clause 12.1(a)) to clause 12.1(l), or the Contractor reasonably believes that the Client is about to become subject to any of them, or if the Client fails to pay any amount due under this Contract on the due date for payment.

13. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Client shall immediately pay to the Contractor all of the Contractor's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Contractor shall submit an invoice, which shall be payable by the Client immediately on receipt;
- (b) the Client shall return all of the Contractor Materials (fixed or otherwise) and any Deliverables which have not been fully paid for. If the Client fails to do so, then the Contractor may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication survive termination shall continue in full force and effect.

14. FORCE MAJEURE

- 14.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Contractor including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Contractor or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of contractors or subcontractors.
- 14.2 The Contractor shall not be liable to the Client as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 14.3 If the Force Majeure Event prevents the Contractor from providing any of the Services and/or Goods for more than 6 weeks, the Contractor shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Client.

15. GENERAL

15.1 Assignment and other dealings.

- (a) The Contractor may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

- (b) The Client shall not, without the prior written consent of the Contractor, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

15.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.2(a); if sent by pre-paid first class post or other next working day delivery service, at 11.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15.3 Severance.

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 Waiver. A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.5 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

15.6 Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

- 15.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Contractor.
- 15.8 **Governing law.** This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 15.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

