

1 Definitions and Interpretation

"Bespoke Goods" means where applicable, the goods as set out in the Order, which are made specifically to Your Specification;

"Contract" means the contract for the supply of Work formed by Our acceptance (which, however made or communicated, shall be deemed made subject to these Conditions);

"Goods" means Bespoke Goods and/or Standard Products, as applicable;

"Instructions" means where applicable, the written instructions regarding how to transport, store, use, decorate, seal, treat, install, maintain and/or otherwise deal with the Goods, as supplied with the Goods prior to or upon delivery and thereafter supplied to You by Us from time to time;

"Intellectual Property" means all patents, rights to inventions, copyright and related rights, trade marks, trade names, database rights, rights in designs, rights in and to confidential information and know-how and all and any other intellectual property rights, in each case whether registered or unregistered and including all applications (and rights to apply) for, and renewals or extensions of, 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.

"Law" means any and all applicable statute, rule, regulation, directive or similar;

"Order" means the order placed by You for the supply of Work;

"Quote" means the rates quoted to You by Us in respect of Work, prior to Your Order;

"Service" means the services detailed in the Order or as otherwise agreed by the parties;

"Specification" means in relation to the Bespoke Goods the specification as agreed in accordance with condition 5.3 and detailed in the Quote or, in the case of Standard Products, the relevant manufacturer's specification, as applicable;

"Standard Products" means products which are not Bespoke Goods or Third Party Products;

"Third Party Product" means products which are made or manufactured by a third party and which are not made to Our specification;

"Used" means in respect of the Goods, installation, treatment, decoration, sealing, modification, variation and/or other similar use of the Goods;

"We" **"Us"** **"Our"** means Harte Woodworking Ltd(No.1152895) of Springfield Mill, Spa Street, Ossett, West Yorkshire WF5 0HW and Harte Shop Equipment Ltd(No. 01539792) of Ripley Cl, Normanton WF6 1TB

"Work" means the supply by Us of Goods and/or Services, as detailed in the Order; and

"You" **"Your"** means the person, company or other body placing an Order with Us.

2 Contract formation

2.1 The Contract shall be deemed to have been entered into:

- upon receipt of Our written order acknowledgement; or
 - when We (as applicable):
 - commence sourcing materials and other products; or the supply of the Goods;
 - commence manufacture of the Bespoke Goods;
 - deliver the Goods; or
 - commence supply of the Services,
- whichever is the earlier.

2.2 All Work supplied is supplied subject to these Conditions and these Conditions shall be the sole terms and conditions applicable. Terms and Conditions on Your order form or on that of any of Your nominated contractors' order forms or other similar document shall not be binding on Us and the placing of the Order by You shall indicate unqualified acceptance of these Conditions.

2.3 No representative, agent or other person has Our authority to vary, amend or waive any of these Conditions on Our behalf and no amendment or addition to any of these Conditions shall be deemed to have been accepted unless accepted in writing by Our Managing Director.

3 Supply of the Work

3.1 Any dates specified by Us for delivery of the Work are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time. We may deliver the Work in advance of the quoted delivery date on giving reasonable notice to You.

3.2 We may deliver the Work by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.

3.3 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle You to repudiate or cancel any other Contract or instalment.

3.4 You undertake and warrant that You have obtained at Your own cost all the necessary permissions, certificates, licences, permits and consents required by Law in respect of the Work including without limitation, where applicable, planning permission.

4 Rates and payment

4.1 Subject to condition 4.3, rates for the Work are the rates as set out in Our Quote or if no Quote is provided, such Work shall be charged for at Our standard rates for that type of Work as in force at the relevant time (the **"Price"**). The Price is exclusive of VAT and delivery.

4.2 A Quote is an invitation only and shall be valid for 30 days.

4.3 The Price quoted is applicable to the type and quantity of Work specified and the information provided by You prior to the Quote being issued. You understand and agree that We shall be entitled to increase the Price by notice to you at any time prior to delivery of the Work:

- in the event that the information provided by You changes or proves to be incomplete or inaccurate after We have supplied You with a Quote, including without limitation a change in delivery dates, quantities or specifications for the Work; or
- to reflect any increase in the cost to Us which is due to any factor beyond our reasonable control, including without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture.

For the avoidance of doubt, where an Order is accepted on the understanding (whether oral or written) between You and Us that it will form part of a larger number or series of orders by You and following which some or all of those anticipated Orders are not (for whatever reason) made by You, We reserve the right to charge you a reasonable fee for the costs of material purchased or otherwise irrevocably committed to by Us to service Your total requirements as anticipated by You and Us at the outset of the relationship; and/or the cost of Goods which are manufactured by Us specifically to service Your anticipated requirements which are not ultimately required by You.

4.4 We reserve the right to charge:

- a reasonable fee for time incurred by Us consulting with You in respect of an Order (or potential Order), at Our premises or elsewhere, including without limitation in respect of travel and design time;
- a fee for payments made by credit card (such fee to be determined by the type of card used and the amount being charged to the card); and/or
- for delivery where the Goods are not collected by You from Our premises.

4.5 Any typographical, clerical or other error or omission on Our website or in any sales literature, Quote, price list, acceptance of offer, invoice or other document or information issued by Us shall be subject to correction without any liability on Our part.

4.6 Unless otherwise stated in the Quote or otherwise agreed in writing between You and Us:

- we shall be entitled to invoice You for the full Price in advance of delivery of the Work;
- where Services last for more than one month, We shall be entitled to invoice You for the Price on a Monthly basis;
- payment must be made within 7 days of the date of Our invoice or where you have a valid and current credit account with Us payment must be made in accordance with the terms of your credit account; and
- where You do not have a valid and current credit account with Us, We shall be entitled to require payment in full in advance of delivery of the Work, or any part thereof.

4.7 Without prejudice to any other rights or remedy that We may have, if You fail to pay Us on the due date We may:

- charge interest on any amounts overdue at the rate of 4% per annum above the base rate of the Natwest Bank Plc as applying from time to time to run from the due date for payment until We receive the full amount, whether before or after judgment and compounded daily; and/or
- suspend delivery of the Work in whole or in part.

4.8 Time for payment shall be of the essence of the Contract. No payment shall be deemed to have been received until We have received cleared funds.

4.9 All payments payable to Us under the Contract shall become due immediately on its termination despite any other provision.

4.10 You shall make all payments due under the Contract in full without any deduction whether by set-off, counterclaim, discount, abatement or otherwise. We shall at any time (subject to giving you written notice) be entitled to set off any amount owing from You to Us against any amount owing from or payable by Us to You.

4.11 Where We, at Your request, store or otherwise hold any items which were in Your possession or control, we shall be entitled at Our discretion to charge You a reasonable fee for such storage services and/or, subject to Us notifying You a minimum of 7 days in advance, to dispose of such items without further notice to You.

5 Order

5.1 In order that We may provide You with a Quote for Work, You must provide Us with details of the Work required, including without limitation any and all applicable designs, drawings and measurements for such Work and, in respect of Bespoke Goods, the specification for such items.

5.2 Whilst We shall, at Your request, liaise with Your designers and other third party agents, You agree that We shall have no responsibility or liability in respect of the accuracy and/or completeness of the information provided by You or on Your behalf in accordance with condition 5.1 and You shall be responsible for ensuring the accuracy and completeness of all such information; and for ensuring that such information is supplied to Us in sufficient time to enable Us to perform the Contract in accordance with these Conditions.

5.3 You shall submit the Order to Us in writing, detailing the type and quantity of Work. Further you shall be responsible for ensuring the accuracy of the terms of any Order, including where applicable and without limitation the Specification.

5.4 You agree that where applicable:

- by each of You and Us signing the specification for Bespoke Goods detailed in the Quote, such specification shall be the Specification for the Bespoke Goods and no variation may be made to it by You without obtaining Our prior written consent in accordance with condition 18.3 below; and/or
- the Specification for Standard Products shall be:
 - in respect of Third Party Products, the relevant manufacturer's specification for the item; or
 - for non-Third Party Products, as stated in the Quote.

5.5 You shall be solely responsible for ensuring that the Specification agreed in accordance with condition 5.4(a) above (including without limitation in respect of any and all Bespoke Goods produced from such Specification) comply with: i) the Law; ii) all recognised industry standards and tolerances including without limitation any industry or other best practice guidance applicable to the Goods and how they are to be used; and iii) any and all guidelines we may notify you of (if any).

5.6 We shall be entitled to vary the Specification:

- at Our discretion provided such change does not materially affect the Work or materially reduce its quality or performance; and/or
- where such change is necessary for the purpose of making the Work conform with the Law and/or any applicable industry standard and/or tolerance (**"Compliant"**), and You agree that We shall be under no obligation to identify that the Specification for Bespoke Goods and/or any item of Bespoke Goods is so Compliant.

5.7 No Order which We have accepted may be cancelled by You except with Our agreement in writing and on terms that You shall indemnify Us in full against all loss (including but not limited to loss of profit), costs (including but not limited to the cost of all labour and materials used), damages, charges and expenses incurred by Us as a result of cancellation.

6 Intellectual Property Rights

6.1 You acknowledge that any and all Intellectual Property in and relating to the Work, Us and/or Our business belongs solely to Us and/or Our licensors, as applicable, and nothing said or done by either party shall constitute the transfer or licence of any such rights.

6.2 You grant Us a royalty-free, sub-licensable, non-exclusive, perpetual licence to use any and all Intellectual Property rights necessary or desirable in respect of the use of the Specification for Bespoke Goods and/or the manufacture or supply of the Bespoke Goods in accordance with the Specification.

6.3 If We manufacture the Bespoke Goods or apply any process to the Bespoke Goods in accordance with the Specification submitted by You, You shall indemnify Us and keep Us indemnified against all loss, damages, costs, claims and expenses incurred by Us in connection with any and all claims relating to:

- infringement of any third party Intellectual Property resulting from Our use of the Specification submitted by You; and/or
- failure of the Bespoke Goods to comply strictly with any and all Laws and/or other applicable industry standard and tolerances.

7 Description

7.1 The quantity and description of the Goods shall be as set out in Our Quote.

7.2 You acknowledge and agree that:

- as many of Our Bespoke Goods are made from timber or other natural materials, no warranty is given that they will be the same in all material respects as any sample and Bespoke Goods are subject to variation in shade, colour and texture;
- where Bespoke Goods are made from natural materials, We shall not be responsible for any faults or defects occurring naturally in the materials which would not have been immediately apparent on reasonable inspection prior to their use or incorporation into the Bespoke Goods;
- dimensions and other measurements provided by Us are estimates only;
- all samples, drawings, descriptive matter, specifications and advertising issued by Us and any descriptions or illustrations contained in Our catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample; and
- We shall have the option of providing a Quote for and/or supplying any Goods ordered by You in imperial measurements in the nearest equivalent metric measurements.

8 Delivery

8.1 Unless otherwise agreed in writing by Us:

- You shall collect the Goods from Our place of business and We will not be responsible for physically delivering the Goods to your chosen address; and
- We shall be under no obligation to store the Goods after the time of sale.

8.2 The Goods will be deemed to have been delivered to and received by You upon receipt of a signature received at the time of and place for delivery or 3 days after We notify You that the Goods are ready for collection, whichever occurs first. It shall be Your responsibility to:

- ensure that any person who signs at the point of delivery is authorised to sign for You; and
- where applicable, attend the factory in order to inspect the Goods prior to delivery.

8.3 If for any reason You fail to accept delivery of any of the Goods or We are unable to deliver the Goods on time because You have not provided appropriate instructions, documents, licences or authorisations:

- the Goods shall be deemed to have been delivered and We may invoice You for the Goods as if delivery had physically occurred;
- risk in the Goods shall pass to You (including for loss or damage caused by Our negligence) at the point We were ready to deliver the Goods;
- At our sole discretion, We may store the Goods until delivery, whereupon You shall be liable for all related costs and expenses (including, without limitation, storage and insurance); or
- We may sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge You for any shortfall below the price under the Contract or, where We have been paid for the Goods, account to You for the excess over the price under the Contract.

8.4 Where we agree to arrange delivery of the Goods to Your nominated address, You:

- shall be liable to pay for any and all delivery charges incurred by Us, including without limitation for transport, packaging and insurance;
- acknowledge and agree that We may use a third party (such as a haulage company) to transport the Goods to Your nominated address;
- agree that We shall not be liable for any act or omission of any third party performing transport services in respect of the Goods irrespective of whether such third party was instructed by Us, including without limitation the acts or omissions of the third party's employees and agents;
- shall ensure that all deliveries of Goods to Your nominated address can be made on suitable hard roads at ground level with unrestricted access and that all reasonable measures are taken as are necessary to ensure that premises to which deliveries are made under this Contract are safe and free from risks to the health and safety of Our employees, agents and sub-contractors and comply with all relevant health and safety legislation. For the avoidance of doubt, You, Your personnel and Your sub-contractors shall comply with Your obligations under the Health and Safety at Work etc. Act 1974 and its associated regulations from time to time and with all site-specific Health and Safety requirements and will work within these obligations;
- agree that We shall not be responsible for loading and/or unloading the Goods and You shall make suitable arrangements, at Your expense, for offloading deliveries; and
- shall be responsible for preparing the site where delivery is to occur, including without limitation ensuring all access routes are clear in order that delivery can be performed unhindered.

9 Non-delivery

9.1 The quantity of any consignment of Goods as recorded by Us upon despatch from Our place of business shall be conclusive evidence of the quantity received by You on delivery unless You can provide conclusive evidence proving the contrary.

9.2 You must check the condition of Goods before signing to take delivery of the Goods.

9.3 We shall not be liable for any non-delivery of the Goods (**"Non-Delivery"**) (even if caused by Our negligence) unless You give Us written notice of the Non-Delivery within 3 days of the date when the Goods were or where applicable, would in the ordinary course of events have been received.

9.4 Our liability for Non-Delivery of the Goods shall be limited to replacing the Goods within a reasonable time or refunding the fee paid for such Goods.

10 Risk / Title

- 10.1 Risk in the Goods shall pass at the point of delivery in accordance with condition 8 or upon ownership of the Goods passing to You under condition 10.2, whichever occurs earlier.
- 10.2 Ownership of the Goods shall not pass to You until We have received payment of all sums due to Us in respect of:
- (a) the Work; and
 - (b) all other sums which are or which become due to Us from You under this or any other contract.
- 10.3 Until ownership of the Goods has passed to You, You shall:
- (a) hold the Goods on a fiduciary basis as Our bailee;
 - (b) store the Goods in such a way that they remain readily identifiable as Our property;
 - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (d) store and maintain such Goods in a dry place and in a satisfactory condition and in accordance with the Instructions (as can be evidenced by reasonable written record where appropriate);
 - (e) insure the Goods and keep them insured on Our behalf for their full price against all risks with an insurer that is reasonably acceptable to Us and upon Our request provide written evidence of such;
 - (f) at our request, deliver up the Goods to Us (provided the Goods are still in existence and have not been resold); and
 - (g) where applicable, hold all proceeds from sale or otherwise of the Goods (including without limitation insurance proceeds) in a separate designated account (of which You shall provide Us with details) until ownership has passed to You in accordance with condition 10.2.
- 10.4 You grant or shall procure the grant (as applicable) to Us, Our agents and employees of an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where You have not acquired ownership of the Goods under clause 10.2, to recover them.

11 Instructions

- 11.1 You agree that You shall at all times deal with the Goods strictly in accordance with the Instructions.

12 Goods Warranty

- 12.1 Subject to conditions 11.1 and 7.2:
- (a) We agree that upon delivery in accordance with condition 8 above and for 12 months thereafter, the Bespoke Goods and such Standard Goods as are not Third Party Products will meet the Specification in all material respects; and
 - (b) in relation to Third Party Products, to use reasonable endeavours to make available to You the benefit of the warranty (if any) received by Us from our supplier in respect of such Third Party Products to the extent We are reasonably able to do so,
- (the “**Goods Warranty**”).
- 12.2 You acknowledge and agree that unless expressly agreed in advance and in writing, We do not and shall not be responsible in any way for installing or otherwise fitting the Goods and You shall be responsible and liable for the organisation and cost of all required or desired installation services.
- 12.3 You acknowledge and agree that by signing to take delivery of the Goods and/or by Using the Goods in any way, You shall be deemed to have accepted that the Goods comply with the Goods Warranty (except where the defect or failure to comply with such warranty is not apparent on reasonable inspection).
- 12.4 In the event that the Goods do not comply with the Goods Warranty:
- (a) except where the defect or failure to comply with the Goods Warranty is not apparent on reasonable inspection, You must not Use the Goods or permit the Goods to be Used in anyway;
 - (b) You must notify Us in writing of any claim under the Goods Warranty within 7 days of the date of delivery in accordance with condition 8 or where the defect or failure was not apparent on reasonable inspection within a reasonable time after discovery of the defect or failure and in any event within 12 months of the date of delivery. Such notification must be accompanied by proof of purchase; and provided that at Our request and expense You return the Goods to Us or grant Us access to them in situ, We shall be entitled to, at Our option:
 - (i) repair or replace such Goods (or the defective part) or if such is no longer available We shall supply the nearest equivalent and You acknowledge and agree that We cannot guarantee that replacement Goods will provide an exact match; or
 - (ii) refund the price of such Goods,but We shall have no further liability to You.
- For the avoidance of doubt, where You Use the Goods (except where the defect or failure to comply with the Goods Warranty above is not apparent on reasonable inspection) and/or do not notify Us in accordance with condition 12.4(b), You shall not be entitled to reject the Goods and We shall have no liability for such defect or failure and You shall be bound to pay the Price as if the Goods complied with the Goods Warranty.

13 Services

- 13.1 Where agreed in advance and in writing, We shall provide the Services to You:
- (a) at the address stipulated in the Order; and
 - (b) subject to condition 3.1 above, on or within the dates stipulated in the Order or as otherwise agreed between the parties.
- 13.2 We shall provide the Services to you using reasonable skill and care.
- 13.3 You acknowledge and agree that:
- (a) You must check the condition of the Services before signing to confirm completion of the Services; and
 - (b) by signing to confirm completion of the Services You shall be deemed to have accepted that the Services comply with the warranty given at condition 13.2, (except where the defect or failure to comply with such warranty is not apparent on reasonable inspection).
- 13.4 In the event that the Services do not comply with the warranty given in the above condition 13.2:
- (a) You must notify Us in writing within 14 days of becoming aware of such non-compliance; and
 - (b) We shall be entitled to, at Our option, re-perform the Services (or the defective part) or refund the price of such Services, but We shall have no further liability to You.

14 Change Control Procedure

- 14.1 In the event that You wish to make any changes to any aspect of an Order or the Contract, including but not limited to the volume or description of Work You must notify Us of such changes in writing (“**Change Request**”).
- 14.2 On receipt of a Change Request We will, within 14 days, notify You in writing as to whether We accept the Change Request and if We are willing to accept the Change Request will notify You of the increase or decrease of the cost and the relevant changes that need to be made to the Contract. We are under no obligation to accept any changes.

15 Liability

- 15.1 This condition 15 sets out Our entire financial liability (including any liability for the acts or omissions of Our employees, agents and sub-contractors) to You in respect of any breach of the Contract; any use made by You of the Work; any use made or resale by You of any Goods, or of any product incorporating any of the Goods; and any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 15.2 Nothing in these Conditions limits or excludes Our liability for death or personal injury resulting from Our negligence; or for any damage or liability incurred by You as a result of Our fraud or fraudulent misrepresentation; or for any liability which cannot be excluded as a matter of law.
- 15.3 Except as set out in these Conditions all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 15.4 You acknowledge and agree that:
- (a) We do not warrant or give any guarantees that the Work will be fit for purpose and it shall be for You to determine that the Work is fit for Your purpose prior to placing an Order; and
 - (b) unless otherwise agreed in writing in advance, We do not advise in any way in respect of building regulations and/or other compliance issues and You shall be solely responsible for ensuring that the Bespoke Goods, including without limitation the relevant Specification, comply with all Laws and other applicable rules and regulations.
- 15.5 Subject to condition 15.2:
- (a) We fully exclude all liability where You do not deal with the Work at all times and in all respects in strict accordance with the Instructions including without limitation where the Bespoke Goods are not stored and treated in accordance with the Instructions prior to, during and following installation;
 - (b) We shall not be liable where any defect occurs in the Work as a result of normal wear and tear;
 - (c) We shall not be liable to the extent any defect occurs in the Bespoke Goods as a result of exposure to severe and/or adverse conditions.
 - (d) We shall not be liable to the extent any defect occurs in the Bespoke Goods as a result of any inaccuracy or incompleteness of the Specification in respect of the Bespoke Goods;
 - (e) We shall not be liable in respect of any inherent defect or damage to the Goods to the extent such Goods are not manufactured by Us;
 - (f) We shall not be liable for loss of profits; or loss of business; or depletion of goodwill and/or similar losses; or loss of anticipated savings; or loss of goods; or loss of contract; or loss of use; or loss of corruption of data or information; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
 - (g) Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise arising under or in connection with the Contract shall be limited to:

- (i) where the breach relates to Goods, to the price paid or payable for the relevant Goods to which the breach relates;
- (ii) where the breach relates to Services, to the price paid or payable for the relevant Services to which the breach relates in the 6 months prior to the date of the breach; and/or
- (iii) in all other cases to £3,000.

16 Confidentiality

- 16.1 You shall at all times keep secret and confidential all Intellectual Property and technical or commercial know-how, specifications, inventions, processes, initiatives, business and trade secrets, methods of doing business, customer lists and all other information of a confidential nature which have been disclosed to You or Your agent by Us, Our employees, agents or sub-contractors and any other confidential information concerning Our business or Our products (including Intellectual Property) which You may obtain. You shall restrict disclosure of such confidential material to such of Your employees, agents or sub-contractors as need to know the same for the purpose of discharging Your obligations to Us, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind You.
- 16.2 The above 16.1 shall not apply to confidential information which:
- (a) is in the public domain or is already lawfully known to You at the time of disclosure; or
 - (b) subsequently comes lawfully into Your possession from a third party; or
 - (c) subsequently enters the public domain otherwise than as a result of unauthorised disclosure by Us or any other person.

- 16.3 This condition 16 shall survive termination of the Contract, however arising.

17 Termination

- 17.1 Either You or Us may (without prejudice to any other rights) forthwith terminate the Contract by written notice to the other:
- (a) if the other commits a material breach of any provision of the Contract which is not capable of remedy or, where the breach is capable of remedy, fails to remedy such breach within 30 days of receipt of a notice from the innocent party specifying the breach; or
 - (b) if the other party becomes bankrupt insolvent compounds with its creditors or shall have distress or execution levied upon its property or is wound up or goes into liquidation (except for the purposes of a bona fide reconstruction) or shall have a receiver administrative receiver or administrator appointed of the whole or any part of its assets or shall suffer the appointment of any similar person under the laws of its domicile (an “**Insolvency Event**”).
- 17.2 We may at any time terminate the Contract, including without limitation any outstanding Orders, with immediate effect in the event:
- (a) You or any of Your officers, employees or agents, by any act or omission, bring Us or You or either party's reputation into disrepute;
 - (b) You undergo a Change of Control. (For the purposes of this condition, “**Control**” shall mean in relation to a body corporate, the power of a person to secure that the affairs of the body corporate are conducted in accordance with the wishes of that person (or persons): i) by means of the holding of shares, or the possession of voting power, in or in relation to, that or any other body corporate; or ii) (b) by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating that or any other body corporate, and a “**Change of Control**” occurs if a person who controls any body corporate ceases to do so or if another person acquires control of it.); or
 - (c) any company in Your Group at any time suffers an Insolvency Event. For purposes of this condition 17.2(c), “Your Group” shall be defined as any of Your Subsidiaries (as defined in section 1159 of the Companies Act 2006 as amended from time to time) and any of Your Holding Companies (as defined in section 1159 of the Companies Act 2006 as amended from time to time) and any Subsidiary of such Holding Company(ies).
- 17.3 The exercise of the rights granted under condition 17.1 shall not prejudice or affect any right of action or remedy which may have already accrued or may accrue thereafter to either Party.
- 18 General provisions**
- 18.1 Each provision of the Contract is severable and distinct from the others and if any provision is or at any time becomes to any extent or in any circumstances invalid, illegal or unenforceable for any reason, it shall to that extent or in those circumstances be deemed not to form part of the Contract, but the validity, legality and enforceability of all other provisions of the Contract shall not otherwise be affected or impaired, it being the Parties' intention that every provision of the Contract shall be and remain valid and enforceable to the fullest extent permitted by law.
- 18.2 We shall have no liability to You under the Contract if We are prevented from or delayed in performing any of Our obligations under the Contract or from carrying on Our business by acts, events, omissions or accidents beyond Our reasonable control, including strikes, lock-outs or other industrial disputes (whether involving Our workforce or any other party), failure of a utility service or transport network, act of God, act of terrorism, 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, extreme adverse weather conditions or default of suppliers or sub-contractors.
- 18.3 Subject to condition 2.3 above, no variation of the Contract shall be effective unless it is in writing, refers specifically to the Contract and is executed by a duly authorised representative of each party.
- 18.4 Failure or delay of a party to exercise or enforce any right under the Contract shall not be deemed to be a waiver of that right or any other right, nor operate to bar exercise or enforcement of it or any other right at any time or times thereafter.
- 18.5 Each party warrants to the other that the Contract constitutes the entire agreement and understanding between the parties and supersedes any previous agreement between them relating to the matters contained in the Contract. Further, in entering into the Contract, it does not rely on any statement, representation, assurance, promise or warranty of any person other than as expressly set out in these Conditions. Neither party excludes its liability for fraudulent misrepresentation.
- 18.6 You shall not assign, transfer or sub-contract the Contract or any of Your rights, benefits or obligations under it to any other person, firm or supplier without obtaining Our prior written consent.
- 18.7 A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Contract.
- 18.8 Any notice served by either party shall be sent by: i) first class post to, in Our case, Our address detailed in condition 1 of these Conditions, and in Your case to the address as detailed in the Order, or such other address as a party may notify to the other in accordance with this condition; or ii) fax to such number as each party may notify the other of from time to time; or iii) by email, provided such notice is confirmed by fax or post within 3 working days of such email notice being sent. Notice shall be deemed received, in the case of post, 2 working days after postage or in the case of fax or email, at 9 am on the next working day provided the party giving notice can evidence that the notice was sent to the correct address.
- 18.9 The Contract shall be governed by English law and the courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Contract.