

ISON MOULDING LTD

CONDITIONS FOR THE SUPPLY OF MANUFACTURED GOODS

1. INTERPRETATION AND DEFINITIONS

1.1 In these Conditions, the following definitions apply:

Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
Client	the person or firm who purchases the Goods from the Supplier;
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 16.10;
Contract	the contract between the Supplier and the Client for the supply of Goods in accordance with these Conditions;
Delivery Location	has the meaning set out in clause 4.2;
Force Majeure Event	has the meaning given to it in clause 15.1;
Goods	the goods (or any part of them) set out in the Order;
Goods Specification	any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Client and the Supplier;
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;
Order	the Client's order for the supply of Goods, as set out in the Client's purchase order form, or the Client's written acceptance of the Supplier's quotation, or overleaf, as the case may be;
Supplier	ISON Moulding Ltd registered in England and Wales with company number 6496109; and
Tooling	the tooling.

1.2 In these Conditions, the following rules apply:

- 1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns;
- 1.2.3 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;
- 1.2.4 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
- 1.2.5 a reference to **writing** or **written** includes e-mails.

2. **BASIS OF CONTRACT**

- 2.1 The Order constitutes an offer by the Client to purchase Goods and Tooling in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods contained in the Supplier's 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 or have any contractual force.
- 2.4 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.
- 2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

3. **GOODS**

- 3.1 The Goods are described in the Goods Specification.
- 3.2 The Client warrants undertakes and represents to the Supplier that the Goods to be supplied under the Goods Specification are in accordance with all applicable rules , regulations and legislation.
- 3.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

4. **DELIVERY OF GOODS**

- 4.1 The Supplier shall ensure that:
 - 4.1.1 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Client and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - 4.1.2 if the Supplier requires the Client to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. The Client shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Client's expense.
- 4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Goods are ready.
- 4.3 Delivery of the Goods shall be completed on the Goods arrival at the Delivery Location.
- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier 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 Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 If the Supplier 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 Supplier 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 Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 4.6 If the Client fails to accept or take delivery of the Goods when the Supplier attempting to make delivery of the Goods, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods delivery of the Goods shall be deemed to have been completed at 5.00 pm on the Business Day following the day on which the Supplier attempted to make delivery of the Goods at the Delivery Location.
- 4.7 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Client to cancel any other instalment.
- 4.8 The Client shall not be entitled to reject the Goods if the Supplier delivers up to and including 5 per cent more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Order invoice on receipt of notice from the Client that the wrong quantity of Goods was delivered. All notice of wrong quantity must be sent to the supplier within 48 hours of receipt of

Goods.

5. **QUALITY OF GOODS**

- 5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**), the Goods shall:
- 5.1.1 conform in all material respects with their description and the Goods Specification; and
 - 5.1.2 be free from material defects in material and workmanship.
- 5.2 Subject to clause 5.3, if:
- 5.2.1 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 5.1;
 - 5.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and
 - 5.2.3 the Client (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Client's cost,
- the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods.
- 5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
- 5.3.1 the Client makes any further use of such Goods after giving a notice in accordance with clause 5.2;
 - 5.3.2 the defect arises because the Client failed to follow the Supplier'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;
 - 5.3.3 the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Client;
 - 5.3.4 the Client alters or repairs such Goods without the written consent of the Supplier;
 - 5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - 5.3.6 the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Client in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 5.2.

6. **TITLE AND RISK**

- 6.1 The risk in the Goods shall pass to the Client on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Client until the earlier of:
- 6.2.1 the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Client, in which case title to the Goods shall pass at the time of payment of all such sums; and
 - 6.2.2 the Client resells the Goods, in which case title to the Goods shall pass to the Client at the time specified in clause 6.4.
- 6.3 Until title to the Goods has passed to the Client, the Client shall:
- 6.3.1 store the Goods separately from all other goods held by the Client so that they remain readily identifiable as the Supplier's property;
 - 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
 - 6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.13; and
 - 6.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 6.4 Subject to clause 6.5, the Client may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Client resells the Goods before that time:
- 6.4.1 it does so as principal and not as the Supplier's agent; and
 - 6.4.2 title to the Goods shall pass from the Supplier to the Client immediately before the time at which resale by the Client occurs.

- 6.5 If before title to the Goods passes to the Client the Client becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.13, then, without limiting any other right or remedy the Supplier may have:
- 6.5.1 the Client's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
 - 6.5.2 the Supplier may at any time:
 - 6.5.2.1 require the Client to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - 6.5.2.2 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.
- 7. TOOLING**
- 7.1 The Tooling is described in the Client's CAD drawings.
- 7.2 The Supplier shall use reasonable endeavours to procure that, on manufacture, the Tooling:
- 7.2.1 will conform in all material respects with the Client's CAD drawings; and
 - 7.2.2 is free from material defects on material and workmanship.
- 7.3 If the Client gives notice that the Tooling does not comply with the warranty set out in clause 7.2, the Supplier shall, at its option, repair or replace the defective Tooling, or refund the price of the defective Tooling. The Supplier shall have no further liability to the Client in respect of the Tooling failing to comply with the warranty in clause 7.2.
- 7.4 The Client is responsible for all maintenance costs of their tooling (including in respect of wear and tear).
- 7.5 The Supplier shall, for the period it has possession or control of the Tooling:
- 7.5.1 use reasonable endeavours to prevent loss or damage to the Tooling;
 - 7.5.2 use reasonable endeavours to ensure that the Tooling is kept secure and identified as the property of the Client; and
 - 7.5.3 maintain, with a reputable insurance company, insurance cover for any loss or damage to the Tooling for its full replacement cost.
- 7.6 Title to the Tooling shall not pass until the Supplier receives payment (in cash or cleared funds) for the Tooling. Once title to the Tooling passes to the Client, the Tooling remains the absolute property of the Client and the Supplier may not part with possession of it, or make it available, to any third party.
- 7.7 This clause 7 shall survive termination of the Contract.
- 8. CLIENT'S OBLIGATIONS**
- 8.1 The Client shall:
- 8.1.1 ensure that the terms of the Order are complete and accurate;
 - 8.1.2 ensure that any specifications supplied to the Supplier for the purposes of the Contract are complete and accurate; and
 - 8.1.3 co-operate with the Supplier in all matters relating to the Goods and the Tooling.
- 9. CHARGES AND PAYMENT**
- 9.1 The price for Goods and/or the Tooling shall be the price set out in the Order. All prices are exclusive of all costs and charges of transport which shall be paid by the Client.
- 9.2 In respect of Goods, the Supplier shall invoice the Client on or at any time after it attempts to make delivery of the Goods. The Client shall pay such invoices within 30 days of the date of the invoice.
- 9.3 If the Supplier delivers more Goods than were ordered, in accordance with clause 4.8, the Supplier may make a pro-rata adjustment to the invoice for that Order.
- 9.4 The Client shall pay each invoice for Goods submitted by the Supplier in full and in cleared funds to a bank account nominated in writing by the Supplier.
- 9.5 In respect of the Tooling, the Supplier shall invoice the Client:
- 9.5.1 as to 30% of the Tooling charges on acceptance of an Order;
 - 9.5.2 as to 30% of the Tooling charges when the Supplier makes the first off sample available to the client; and
 - 9.5.3 as to 40% of the Tooling Charges on Client sign off the sample moulding, such sign off not to be unreasonably withheld or delayed. The Client shall pay invoices for all Tooling Charges immediately.
- 9.6 In respect of maintenance costs (under clause 7.3), the Supplier shall invoice the Client at its discretion. The Client shall pay such invoices within 30 days of the date of the invoice.

- 9.7 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Client, the Client shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.
- 9.8 Time for payment shall be of the essence of the Contract.
- 9.9 If the Client fails to make any payment due to the Supplier 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 annum above 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.
- 9.10 The Client shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by the Supplier to the Client.
10. **INTELLECTUAL PROPERTY RIGHTS**
- 10.1 The Client acknowledges that:
- 10.1.1 except as otherwise set out in the Contract, the Intellectual Property Rights in or associated with the Goods are the Supplier's (or its licensor's) property;
- 10.1.2 nothing in this Contract shall be construed as conferring any licence or granting any rights in favour of the Client in relation to the Intellectual Property Rights in or associated with the Goods; and
- 10.1.3 any reputation in any trade marks affixed or applied to the Goods shall accrue to the sole benefit of the Supplier or any other owner of the trade marks from time to time.
- 10.2 The Client and its licensors shall retain ownership of all Intellectual Property Rights in the Tooling.
- 10.3 The Client hereby grants the Supplier an irrevocable royalty-free, non-exclusive, worldwide licence during the term of the Contract to use all Intellectual Property Rights in:
- 10.3.1 any specification supplied to the Supplier, for the purposes of the Contract; and
- 10.3.2 the Tooling, for the purposes of the Contract.
- 10.4 The Client warrants undertakes and represents to the Supplier that all Intellectual Property Rights in any specification supplied to the Supplier and in the Tooling (together the **Client Materials**) is the property of the Client.
- 10.5 The Client:
- 10.5.1 warrants, undertakes and represents that the receipt and use in the performance of the Contract by the Supplier, its agents, subcontractors or consultants, of the Client Materials shall not infringe the rights, including any Intellectual Property Rights, of any third; and
- 10.5.2 shall keep the Supplier indemnified in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Supplier as a result of or in connection with any claim brought against the Supplier, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of the Contract of the Client Materials.
- 10.6 This clause shall survive termination of the Contract.
11. **CONFIDENTIALITY**
- 11.1 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.

11.2 This clause 11.1 shall survive termination of the Contract.

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

12.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 12.1.2 fraud or fraudulent misrepresentation;
- 12.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- 12.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- 12.1.5 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

12.2 Subject to clause 12.1, the Supplier shall not be liable to the Client for:

- 12.2.1 any indirect, special or consequential loss or damage; or
- 12.2.2 loss of data or other equipment or property; or
- 12.2.3 economic loss or damage; or
- 12.2.4 incurring of liability for loss or damage of any nature whatsoever suffered by third parties (including in each case incidental and punitive damages); or
- 12.2.5 any loss of actual or anticipated profit, interest, revenue, anticipated savings or business or damage to goodwill; or
- 12.2.6 loss of profits,

even if the Supplier is advised in advance of the possibility of any such losses or damages.

12.3 Subject to clause 12.1, the Supplier's total liability to the Client for all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the total sums paid and/or payable by the Client for Goods to which the claim relates.

12.4 This clause 12 shall survive termination of the Contract.

13. **TERMINATION**

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

- 13.1.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;
- 13.1.2 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;
- 13.1.3 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;
- 13.1.4 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 the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- 13.1.5 the other party (being an individual) is the subject of a bankruptcy petition or order;
- 13.1.6 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;
- 13.1.7 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);

- 13.1.8 the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 13.1.9 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;
- 13.1.10 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 13.1.2 to clause 13.1.9 (inclusive);
- 13.1.11 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
- 13.1.12 the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Client's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- 13.1.13 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.
- 13.2 For the purposes of clause 13.1.1, **material breach** means a breach that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from the Contract over its term. In deciding whether any breach is material due regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
- 13.3 Without limiting its other rights or remedies, the Supplier 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.
- 13.4 Without limiting its other rights or remedies, the Supplier may suspend the supply of Goods or all further deliveries of Goods under the Contract or any other contract between the Client and the Supplier if the Client fails to pay any amount due under this Contract on the due date for payment, the Client becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.13, or the Supplier reasonably believes that the Client is about to become subject to any of them.
- 13.5 On termination of the Contract for any reason:
 - 13.5.1 the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Client immediately on receipt;
 - 13.5.2 the accrued rights and remedies of the parties as at termination shall not be affected, 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;
 - 13.5.3 clauses which expressly or by implication have effect after termination shall continue in full force and effect; and
 - 13.5.4 the Supplier shall on request deliver the Tooling to the Client (at the Client's cost and expense).
- 14. **CHANGE CONTROL**
- 14.1 If either party requests a change to the scope of this Contract, the Supplier shall, within a reasonable time, provide a written estimate to the Client of:
 - 14.1.1 the likely time required to implement the change;
 - 14.1.2 any necessary variations to the Supplier's charges arising from the change; and
 - 14.1.3 any other impact of the change on this Contract.
- 14.2 If the Client wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Goods and any other relevant terms of this agreement to take account of the change and this Contract has been varied in accordance with this clause 14.
- 14.3 Notwithstanding clause 14.1 and 14.2, the Supplier may, from time to time and without notice, change the Goods Specification in order to comply with any applicable safety or statutory requirements. The Supplier reserves the right to vary the charges for the Goods as a result thereof provided that the Supplier shall use reasonable endeavours to minimise any price increases.
- 14.4 The Supplier may charge for the time it spends assessing a request for change from the Client on a time and materials basis.
- 15. **FORCE MAJEURE**
- 15.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes

(whether involving the workforce of the Supplier 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 suppliers or subcontractors.

- 15.2 The Supplier 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.
- 15.3 If the Force Majeure Event prevents the Supplier from providing any of the Goods for more than 30 days, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Client.

16. GENERAL

- 16.1 This 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. Each party acknowledges that in entering into this 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 this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract. Nothing in this clause shall limit or exclude any liability for fraud or fraudulent misrepresentation.
- 16.2 The Supplier 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.
- 16.3 The Client shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 16.4 Any notice or other communication given to a party under or in connection with this 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 or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 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. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 16.5 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.
- 16.6 If 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.
- 16.7 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 under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor 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.
- 16.8 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 16.9 A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 16.10 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 Supplier.

- 16.11 If any dispute arises in connection with this Contract, the parties agree to enter into mediation to settle such a dispute and will do so in accordance with the Centre for Effective Dispute Resolution Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of notice of the dispute, the mediator will be nominated by CEDR.
- 16.12 This Agreement 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.
- 16.13 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).