

TERMS AND CONDITIONS FOR THE SUPPLY OF PRODUCTS AND/OR SERVICES

1 INTERPRETATION

- 1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions (**Conditions**).
- 1.1.1 **CDM Regulations:** Construction (Design and Management) Regulations 2007;
- 1.1.2 **Charges** means the charges for the Services as set out in the Contract, or as agreed between the Supplier and the Customer;
- 1.1.3 **Contract:** the Customer's purchase order and the Supplier's acceptance of it, or the Customer's acceptance of a quotation for Services by the Supplier under condition 2.2;
- 1.1.4 **Customer:** the person, firm or company who purchases Services from the Supplier;
- 1.1.5 **Customer's Equipment:** any equipment, systems, cabling or facilities provided by the Customer and used directly or indirectly in the supply of the Services;
- 1.1.6 **Deliverables:** all Documents, products and materials developed or supplied by the Supplier or its agents, subcontractors, consultants and employees in relation to the Services in any form.
- 1.1.7 **Document:** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;
- 1.1.8 **Goods:** all products supplied by the Supplier to fulfil the Contract.
- 1.1.9 **In-put Material:** all Documents, information and materials provided by the Customer relating to the Services including (without limitation), the Energy Survey provided by the Supplier;
- 1.1.10 **Services:** the services to be provided by the Supplier under the Contract, together with any other services which the Supplier provides, or agrees to provide, to the Customer;
- 1.1.11 **Standard Daily Fee Rates** means the Suppliers charging rate of £350 per day or £43.50 per hour (excluding VAT);
- 1.1.12 **Supplier:** Energy Conservation Solutions Limited
- 1.1.13 **Supplier's Equipment:** any equipment, including tools, systems, cabling or facilities, provided by the Supplier or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.
- 1.1.14 **VAT:** value added tax chargeable under English law for the time being and any similar additional tax.
- 1.2 Headings in these conditions shall not affect their interpretation.
- 1.3 A reference to writing or written includes faxes and e-mail.
- 1.4 Any obligation in the Contract on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.5 References to conditions and schedules are to the conditions and schedules of the Contract.

2 APPLICATION OF CONDITIONS

- 2.1 These Conditions shall apply to and be incorporated into the Contract; and shall prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the Customer, or implied by trade custom, practice or course of dealing.
- 2.2 The Customer's purchase order, or the Customer's acceptance of a quotation for Services by the Supplier, constitutes an offer by the Customer to purchase the Services on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:
- 2.2.1 by a written acknowledgement issued and executed by the Supplier; or

2.2.2 (if earlier) by the Supplier starting to provide the Services,

when a contract for the supply and purchase of the Services on these Conditions will be established.

- 2.3 Quotations are given by the Supplier on the basis that no Contract shall come into existence except in accordance with condition 2.2. Any quotation is valid for the period stated on the quotation or 30 days from the date of the quotation if no validity period is quoted.
- 2.4 Subject to any variation under condition 2.6 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document). For the avoidance of doubt, the Supplier will accept no variations to these Terms and Conditions unless explicitly agreed in writing.
- 2.5 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.6 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by the Supplier. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract. Nothing in this condition shall exclude or limit the Supplier's liability for fraudulent misrepresentation.
- 2.7 Each order or acceptance of a quotation for Goods by the Customer from the Supplier shall be deemed to be an offer by the Customer to buy Goods subject to these conditions.
- 2.8 No order placed by the Customer shall be deemed to be accepted by the Supplier until a written acknowledgement of order is issued by the Supplier or (if earlier) the Supplier delivers the Goods and/or Services to the Customer.
- 2.9 The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.

3 DESCRIPTION

- 3.1 The quantity and description of the Goods and/or Services shall be as set out in the Supplier's quotation or acknowledgement of order.

4 SUPPLIER'S OBLIGATIONS

- 4.1 The Supplier shall use reasonable endeavours to provide the Services, and to deliver the Deliverables to the Customer, in accordance in all material respects with the Contract.
- 4.2 The Supplier shall use reasonable endeavours to meet any performance dates specified in the Contract, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services unless expressly set out in the Contract.
- 4.3 The Supplier shall use reasonable endeavours to observe all health and safety rules and regulations, and any other reasonable security requirements that apply at the Customer's premises and that have been communicated to it.

5 CUSTOMER'S OBLIGATIONS

- 5.1 The Customer shall:
- 5.1.1 co-operate with the Supplier in all matters relating to the Services;
- 5.1.2 provide the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Customer's premises, office accommodation, data and other facilities as reasonably required by the Supplier, including
- 5.1.2.1 uninterrupted access to each light fitting and relevant services such as distribution boards and switch rooms; and

- 5.1.2.2 clearance below each fitting to erect stepladders and/or tower scaffold as may be required by the Supplier.
- 5.1.3 provide to the Supplier, in a timely manner, such In-put Material and other information as the Supplier may require and ensure that it is accurate in all material respects including the provision of electrical power.
- 5.1.4 be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials (including, but not limited to, asbestos) from any of its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing the Supplier of all of the Customer's obligations and actions under this condition 5.1.4;
- 5.1.5 inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises;
- 5.1.6 ensure that all Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements. The quotation is prepared on the basis that, unless otherwise indicated, all the Customer's existing equipment including lighting, wiring and emergency lighting are fit for purpose and comply with the relevant legislation and guidance.;
- 5.1.7 obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Supplier's Equipment, the use of In-put Material and the use of the Customer's Equipment in relation to the Supplier's Equipment, in all cases before the date on which the Services are to start;
- 5.1.8 keep and maintain the Supplier's Equipment in good condition, and shall not dispose of or use the Supplier's Equipment other than in accordance with the Supplier's written instructions or authorisation;
- 5.1.9 the Customer shall be solely responsible for ensuring it has all necessary statutory approvals for building regulations, fire officer approval and planning consent; and
- 5.1.10 the Customer shall be solely responsible for the production of CDM generated administration or drawings (and any costs thereon) and notifying the Health & Safety Executive in accordance with the CDM Regulations unless all Parties have agreed that the Supplier will be appointed as Principal Designer..
- 5.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

6 CHARGES AND PAYMENT

- 6.1 Where the Contract is for the Supply of product only, Goods will be invoiced to the client on the date of despatch from the Company or its Agent. Where the Contract is for the supply of both Products and Services the following will apply;
 - 6.1.1 The provision of the stock and the provision of the services will form two separate transactions. 80% of the Stock costs will be invoiced for on commencement of the project or such earlier date as agreed between the Customer and Supplier and be payable thirty days from the date of invoice.
 - 6.1.2 On receipt by the Supplier of a valid Purchase Order, 10% of the contract value will be invoiced to cover all Project Preliminaries. Payment will become due on project commencement or 30 days from invoice, whichever is earlier.
 - 6.1.3 The remaining amount will be invoiced on Practical Completion
- 6.2 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.

- 6.3 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Customer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of National Westminster Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

7 RISK/TITLE

- 7.1 The Goods are at the risk of the Customer from the time of delivery.
- 7.2 Ownership of the Goods shall not pass to the Customer until the Supplier has received in full (in cash or cleared funds) all sums due to it in respect of:
- 7.2.1 the Goods; and
- 7.2.2 all other sums which are or which become due to the Supplier from the Customer on any account.
- 7.3 Until ownership of the Goods has passed to the Customer, the Customer shall:
- 7.3.1 hold the Goods on a fiduciary basis as the Supplier's bailee;
- 7.3.2 store the Goods (at no cost to the Supplier) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Supplier's property;
- 7.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- 7.3.4 maintain the Goods in satisfactory condition and keep them insured on the Supplier's behalf for their full price against all risks to the reasonable satisfaction of the Supplier. On request the Customer shall produce the policy of insurance to the Supplier.
- 7.4 The Customer's right to possession of the Goods shall terminate immediately if:
- 7.4.1 the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
- 7.4.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Supplier and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
- 7.4.3 the Customer encumbers or in any way charges any of the Goods.
- 7.5 The Supplier shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Supplier.
- 7.6 The Customer grants the Supplier, its agents and employees 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 the Customer's right to possession has terminated, to recover them.
- 7.7 the Contract and this is not a sale by sample.

8 DELIVERY

- 8.1 Unless otherwise agreed in writing by the Supplier, delivery of the Goods shall take place at the Customer's place of business.
- 8.2 Any dates specified by the Supplier for delivery of the Goods 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.

- 8.3 Subject to the other provisions of these conditions the Supplier shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Supplier's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 180 days.
- 8.4 The Supplier may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 8.5 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.

9 NON-DELIVERY

- 9.1 The quantity of any consignment of Goods as recorded by the Supplier on despatch from the Supplier's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 9.2 The Supplier shall not be liable for any non-delivery of Goods (even if caused by the Supplier's negligence) unless the Customer gives written notice to the Supplier of the non-delivery within 30 days of the date when the Goods would in the ordinary course of events have been received.
- 9.3 Any liability of the Supplier for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

10 QUALITY

- 10.1 A Product warranty will be provided for a period of 5 years from the date of practical completion. The warranty will be on a 'return to base' basis and does not cover any labour involved in replacing the item(s) or for shipping costs for returning any items.
- 10.2 A workmanship warranty will be provided for a period of one year from the date of practical completion.
- 10.3 It is assumed unless expressly stated elsewhere that the existing infrastructure, including but not limited to the wiring and light levels achieved by the existing lighting, are fit for purpose and compliant.
- 10.4 All products supplied and all workmanship will comply with the relevant UK and European Union standards.
- 10.5 Unless specifically mentioned elsewhere, the quoted price does not include any allowance for 'making good'.
- 10.6 Where the Supplier is not the manufacturer of the Goods, the Supplier shall endeavour to transfer to the Customer the benefit of any warranty or guarantee given to the Supplier.
- 10.7 The Supplier shall not be liable for a breach of any of the warranties in conditions 10.1 and 10.2 unless:
- 10.7.1 the Customer gives written notice of the defect to the Supplier within 3 days of the time when the Customer discovers or ought to have discovered the defect;
 - 10.7.2 the Customer has undertaken a check to ascertain that the defect is indeed likely to be the supplied product by following the diagnostic steps in the provided Warranty Procedure.
 - 10.7.3 The Supplier is given a reasonable opportunity after receiving the notice of examining such Goods and the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business for the examination to take place there.
- 10.8 The Supplier shall not be liable for a breach any of the warranties in conditions 10.1 and 10.2 if:
- 10.8.1 the Customer makes any further use of such Goods after giving such notice; or

- 10.8.2 the defect arises because the Customer 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; or
- 10.8.3 the Customer alters or repairs such Goods without the written consent of the Supplier.
- 10.9 Subject to the above, if any of the Goods do not conform with any of the warranties in conditions 10.1 or **Error! Reference source not found.** the Supplier shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Supplier so requests, the Customer shall return the Goods or the part of such Goods which is defective to the Supplier.
- 10.10 If the Supplier complies with the above conditions it shall have no further liability for any warranty claim.

11 CANCELLATION OR VARIATION IN THE PROGRAMME OF WORKS

- 11.1 Contract cancellations must be in writing and it is the responsibility of the Customer to ensure that it receives back written acceptance of the cancellation from the Supplier otherwise the Contract is deemed not cancelled. The Supplier reserves the right to charge a cancellation fee which reflects the true costs of such cancellation.
- 11.2 In the event that the Contract includes Installation services, and the dates for the installation have been agreed, then any request to amend those dates would be subject to the payment of any additional costs incurred in rescheduling – such costs to include, inter alia, the costs attributable to the loss of productivity due to rescheduling labour resource.

12 CONFIDENTIALITY AND THE SUPPLIER'S PROPERTY

- 12.1 The Customer 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 Customer by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its products which the Customer may obtain.
- 12.2 The Customer may disclose such information:
- 12.2.1 to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Customer's obligations under the Contract; and
- 12.2.2 as may be required by law, court order or any governmental or regulatory authority.
- 12.3 The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 12.
- 12.4 The Customer shall not use any such information for any purpose other than to perform its obligations under the Contract.
- 12.5 All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer (including Pre-existing Materials and the Supplier's Equipment) shall, at all times, be and remain as between the Supplier and the Customer the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

13 LIMITATION OF LIABILITY

YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

- 13.1 This condition 13 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:
- 13.1.1 any breach of the Contract;
- 13.1.2 any use made by the Customer of the Services, the Deliverables or any part of them; and
- 13.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 13.2 Nothing in these Conditions limits or excludes the liability of the Supplier:

- 13.2.1 for death or personal injury resulting from negligence; or
- 13.2.2 for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier; or
- 13.2.3 for any liability incurred by the Customer as a result of any breach by the Supplier of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.
- 13.2.4 the Supplier shall not be liable for:
 - 13.2.4.1 loss of profits; or
 - 13.2.4.2 loss of business; or
 - 13.2.4.3 depletion of goodwill and/or similar losses; or
 - 13.2.4.4 loss of anticipated savings; or
 - 13.2.4.5 loss of goods; or
 - 13.2.4.6 loss of contract; or
 - 13.2.4.7 loss of use; or
 - 13.2.4.8 loss of corruption of data or information; or
 - 13.2.4.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 13.2.5 the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the price paid for the Services.

14 TERMINATION

- 14.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:
 - 14.1.1 the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
 - 14.1.2 the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
 - 14.1.3 the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or
 - 14.1.4 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) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) 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; or
 - 14.1.5 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 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; or
 - 14.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party 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;

- 14.1.7 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; or
 - 14.1.8 a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
 - 14.1.9 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; or
 - 14.1.10 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; or
 - 14.1.11 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 condition 14.1.4 to condition 14.1.10 (inclusive); or
 - 14.1.12 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
 - 14.1.13 there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001).
- 14.2 The parties acknowledge and agree that any breach of conditions 5, 6 and 7 shall constitute a material breach for the purposes of this condition 14.
- 14.3 On termination of the Contract for any reason:
- 14.3.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
 - 14.3.2 the Customer shall return all of the Supplier's Equipment, Pre-existing Materials and Deliverables. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and
 - 14.3.3 the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

15 FORCE MAJEURE

- 15.1 The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) 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.

16 VARIATION

- 16.1 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. The Supplier may, from time to time and subject to Customer's prior written consent, which shall not be unreasonably withheld or delayed change the Services, provided that such changes do not materially affect the nature or quality of the Services and, where practicable, it will give the Customer at least 7 days notice of any change.
- 16.2 No variation of the Contract or these Conditions or of any of the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.

17 WAIVER

- 17.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. 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 preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

- 17.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

18 SEVERANCE

- 18.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 18.2 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

19 ENTIRE AGREEMENT

- 19.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 19.2 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract), as provided in the Contract.
- 19.3 Nothing in this condition shall limit or exclude any liability for fraud.

20 ASSIGNMENT

- 20.1 Neither Party shall, without the prior written consent of the other Party, assign, transfer, charge, mortgage, subcontract or deal in any manner with all or any of its rights or obligations under the Contract.
- 20.2 Each party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.

21 GOVERNING LAW AND JURISDICTION

- 21.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.
- 21.2 The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter.