

## **Aston Manor Terms and Conditions of Supply**

### **1. Interpretation**

#### **1.1 Definitions:**

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

**Conditions:** the terms and conditions set out in this document.

**Contract:** the contract between the Supplier and the Customer for the sale and purchase of the Products in accordance with these Conditions.

**Customer:** the person or firm who purchases the Products from the Supplier.

**Delivery Location:** has the meaning given in clause 4.2.

**Force Majeure Event:** an event, circumstance or cause beyond a party's reasonable control, including, but not limited to, strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, revolution, blockade, embargo, strike, Government action, request of a governmental authority or any form of government, official or regulatory intervention, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, disease, pandemics, epidemics or similar events, natural disasters or adverse weather conditions, or default of suppliers or subcontractors.

**Products:** the products (or any part of them) set out in the Order.

**Order:** the Customer's written purchase order for the Products, sent via email or Electronic Data Interchange (EDI) (or such other method as agreed from time to time between the Customer and the Supplier), as the case may be. An Order must set out a purchase order number, valid Supplier product codes and an approved Delivery Location and be in line with agreed minimum order quantities.

**Supplier:** Aston Manor Limited (registered in England and Wales with company number 01699439) of 204 Deykin Avenue, Witton, Birmingham, B6 7BH.

#### **1.2 Interpretation:**

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.

- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that statute or statutory provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase, or term preceding those terms.

## **2. Basis of contract**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice, or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Products in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate. The Customer may not make any amendments to the Order or cancel it once it has been deemed to be accepted in accordance with Condition 2.3 below.
- 2.3 The Order shall only be deemed to be accepted when the Supplier either (i) issues a written acceptance of the Order, or (ii) Delivers the Products (as set out in Condition 4 below) at which point the Contract shall come into existence.
- 2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with, or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.5 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Products referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.6 A quotation for the Products given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of five (5) Business Days from its date of issue.

## **3. Products**

- 3.1 The Products are described in the specification agreed in writing between the Supplier and the Customer (where applicable).
- 3.2 To the extent that the Products are to be manufactured in accordance with a specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional

costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the specification. This clause 3.2 shall survive termination of the Contract.

- 3.3 The Supplier reserves the right to amend the specification of the Products if required by any applicable statutory or regulatory requirements.
- 3.4 The Products will have a minimum shelf life of the shorter of a) 25% of total life or b) three (3) months, or such other time period as may be agreed in writing by the Customer and Supplier, on delivery.
- 3.5 All costs associated with artwork and origination remain with the Customer. All costs associated with changes in artwork or Specifications remain with the Customer.
- 3.6 Where the Supplier is supplying Products under "own label" or "exclusive" packaging:
  - (a) All own label and exclusive product artwork is to be agreed in advance with the Customer and the Supplier will secure an agreed number of months' supply of primary, secondary and tertiary packaging to be held at all times in accordance with any packaging terms agreed in writing between the Customer and Supplier. Where such "own label" or "exclusive" Product is being delisted or changes, the parties will co-ordinate to use remaining stocks of materials prior to cessation of purchase (delisting or changeover date (product change)). Where use of remaining stocks is not possible or where the Customer has requested an earlier de-list, the Supplier may charge the Customer for the cost of the materials and any disposal of the materials.
  - (b) Any product samples provided are for internal checks and sign offs and for consumption and/or destruction on site and will be subject to the Confidentiality provisions of Condition 13.2.

#### **4. Delivery**

- 4.1 The Supplier shall ensure that:
  - (a) each delivery of the Products is accompanied by a delivery note that shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Products; and
  - (b) if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer 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 Supplier's expense.
- 4.2 Where no delivery terms have been agreed with the Supplier, the Supplier shall deliver the Products to the location set out in the Order or such other location as the parties may agree in

writing (**Delivery Location**) at any time after the Supplier notifies the Customer that the Products are ready. If the Delivery Location is the Supplier's premises, then the Customer shall collect the Products within three (3) Business Days of the Supplier notifying the Customer that the Products are ready.

- 4.3 Our minimum order quantity is 24 pallets (LPR pallets for 2Ltr PET Products), 26 pallets (LPR pallets for all non 2Ltr PET Products and 32 pallets (Euro pallets).
- 4.4 Where the Customer has agreed delivery terms (including a specific delivery period) with the Supplier in writing, the Products will be delivered in accordance with these delivery terms (and within the delivery period) provided that:
  - (a) the Order is placed in accordance with the requirements of the delivery terms (including any forecast requirements or lead times and minimum order quantity); and
  - (b) the relevant Delivery Location has been previously approved by the Supplier. If the location is one that the Supplier has not previously approved, then the Supplier may delay the delivery of the Products for such period as is required to authenticate and set-up this new location.
- 4.5 Delivery is completed on the Supplier making the Products available for unloading at the Delivery Location (or where the Products are being collected from the Supplier's premises).
- 4.6 Any dates quoted for delivery 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 Products that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 4.7 The Supplier shall have no liability for any failure of the Customer on arrival at their premises to provide access for unloading the Products within 30 minutes and shall charge the Customer for all related costs and expenses of any time delays beyond 30 minutes.
- 4.8 The Supplier shall have no liability for any failure to deliver the Products (in full or part) to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 4.9 If the Customer fails to take or accept delivery of the Products within three (3) Business Days of the Supplier notifying the Customer that the Products are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:
  - (a) delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Products were ready; and

- (b) the Supplier shall store the Products until delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 4.10 If ten (10) Business Days after the day on which the Supplier notified the Customer that the Products were ready for delivery the Customer has not taken possession or accepted actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage, selling and disposal costs, charge the Customer for any shortfall below the price of the Products.
- 4.11 If the Supplier delivers more or less than the quantity of Products ordered the Customer may not reject them but must notify the Supplier of any under or over delivery within ten (10) Business Days of the delivery of the Products. Provided that the Customer notifies the Supplier of any variation in quantity within this notice period, the Supplier shall:
- (a) collect any excess Products from the Delivery Location within ten (10) Business Days of the Customer notifying an over delivery;
  - (b) make a further delivery of Products (corresponding to the shortfall) within ten (10) Business Days of the Customer notifying an under delivery; or
  - (c) make a pro rata adjustment to the Order invoice (if the Supplier, at its option decides not to make a further delivery or collection of the Products).
- The Supplier shall have no liability for any variations in quantity and shall be entitled to charge the Customer for any excess products if the Customer does not notify the Supplier within ten (10) Business Days.
- 4.12 The Supplier (unless otherwise agreed with the Customer) may deliver the Products by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.13 Any Products delivered to the Customer by the Supplier under duty suspension will be done so in accordance with the requirements of HM Revenue and Customs and the Customer will discharge the goods received within the timescales set by HM Revenue and Customs for the completion of a duty suspended movement.
- 4.14 Any Product which falls within the scope of the Sugar Tax Levy is to be subject to written agreement between the Supplier and the Customer as to where responsibility rests in accordance with the requirements of HM Revenue and Customs.

## 5. Quality

- 5.1 The Supplier warrants that on delivery, and until the date stated as " Best Before" (**warranty period**), the Products shall:

- (a) conform in all material respects with their description and any applicable specification provided by Supplier; and
- (b) be free from material defects in design, material, and workmanship.

5.2 Subject to clause 5.3, if:

- (a) the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 5.1;
- (b) the Supplier is given a reasonable opportunity of examining such Products; and
- (c) the Customer (if asked to do so by the Supplier) returns such Products to the Supplier's place of business,

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

5.3 The Supplier shall not be liable for the Products' failure to comply with the warranty set out in clause 5.1 in any of the following events:

- (a) the Customer makes any further use of such Products after giving notice in accordance with clause 5.2;
- (b) the defect arises because the Customer failed to follow any applicable law and the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of the Supplier following any drawing, design or Specification supplied by or approved by the Customer;
- (d) the Customer alters or repairs such Products without the prior written consent of the Supplier;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Products differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 5.1.

5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

5.6 These Conditions shall apply to any repaired or replacement Products supplied by the Supplier.

## **6. Complaints and Recall**

- 6.1 The Customer shall promptly notify the Supplier if it becomes aware of any actual, suspected or threatened allegation, complaint or notification in relation to the Product by any person and give the Supplier any assistance that the Supplier shall reasonably require to resolve such complaint.
- 6.2 The Supplier shall promptly notify the Customer of any quality or safety issue in relation to the Product which may lead to a recall of the Products. The Customer will not disclose or make available to any third party any information related to the potential or actual product recall.
- 6.3 If there is a recall of any of the Products, the Customer shall provide reasonable assistance to the Supplier in developing a recall strategy and shall work with the Supplier and any applicable governmental agency, entity or authority (a "Governmental Body") in monitoring the recall operation and in preparing such reports as may be required.
- 6.4 Unless required by law, the Customer shall not initiate any recall or withdrawal of Products that have been supplied to the Customer without the prior written consent of the Supplier and only then in strict compliance with the Supplier's instructions about the process of implementing the withdrawal.
- 6.5 The Customer shall, at the request of the Supplier, give the Supplier all reasonable assistance in locating and recovering any Products that are not in accordance with the specification and have been supplied by the Supplier to the Customer, and all costs associated with the product recall shall be borne by the Supplier, other than where the recall is caused by an act or omission of the Customer (including a failure to keep up-to-date and accurate delivery and batch tracing records), in which case the Customer shall indemnify the Supplier for the costs of the recall. The Customer shall immediately notify and provide copies to the Supplier of any communications in relation to the Product, whether relating to recalls or otherwise, with any Governmental Body.

## **7. Title and risk**

- 7.1 The risk in the Products shall pass to the Customer on completion of delivery.
- 7.2 Title to the Products shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Products, in which case title to the Products shall pass at the time of payment.
- 7.3 Until title to the Products has passed to the Customer, the Customer shall:
- (a) store the Products separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
  - (b) not remove, deface, or obscure any identifying mark or packaging on or relating to the Products;

- (c) maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 11.1(b) to clause 11.1(d);
- (e) not allow anything to be done which might create a lien in favour of the Customer or any third party over the Goods; and
- (f) give the Supplier such information as the Supplier may reasonably require from time to time relating to:
  - (i) the Products; and
  - (ii) the ongoing financial position of the Customer.

7.4 At any time before title to the Products passes to the Customer, the Supplier requires the Customer to deliver up all Products in its possession and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

## **8. Price and payment**

8.1 Where the Supplier and the Customer have agreed pricing terms in writing, the price of the Products will be as set out in these pricing terms.

8.2 The Supplier may, by giving notice to the Customer at any time up to one (1) Business Day before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:

- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials, and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), locations, inco terms, quantities or types of Products ordered, or the Specification; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

Where the Supplier and the Customer have agreed pricing terms in writing, any increase under Condition 8.2(a) will take effect after the expiry of any notice period for price increase agreed between the parties as part of the pricing terms.

8.3 The price of the Products:

- (a) excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice;

- (b) excludes excise duty, which will be added onto the price of the goods where they are supplied excise duty paid at a rate in line with current excise duty rates as published by HMRC;
- (c) excludes sugar tax, which will be added onto the price of the goods where they are supplied sugar tax paid at a rate in line with current sugar tax rates as published by HMRC;
- (d) excludes amounts in respect of other taxes or duties as may be levied by HM Revenue and Customs from time to time; and
- (e) excludes any bank charges (which are payable by the Customer).

8.4 The Supplier may invoice the Customer for the Products (i) on or at any time after the acceptance of the Order or (ii) where the Supplier has agreed payment terms with the Customer in writing, in accordance with these payment terms.

8.5 The Customer shall pay each invoice submitted by the Supplier:

- (a) in line with agreed payment terms specified in the invoice or, if no payment terms have been agreed, payment is required in advance of delivery being arranged based on receipt of a proforma invoice; and
- (b) in full and in cleared funds by direct bank transfer (BACS or CHAPS) to the bank details specified on the sales invoice.

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

8.6 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 11 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 8.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

8.7 The Customer shall pay all amounts due in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law or otherwise agreed between the Customer and the Supplier). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

8.8 If either party receives sales data or an invoiced sum which it reasonably believes to be incorrect:

- (a) that party shall notify the other party in writing as soon as reasonably practicable and in any event within five (5) Business Days of the date of receipt;

- (b) the parties shall attempt in good faith to resolve any dispute promptly by negotiation which shall be conducted between the Customer's buying team representative and Finance Manager, and the Supplier's Account Manager and Finance Manager;
- (c) if the dispute cannot be resolved within thirty (30) Business Days, both parties may escalate the issue to senior management within each respective organisation in an attempt to resolve the dispute and failing to resolve this within a further thirty (30) Business Days, take further legal action as the party deems necessary;
- (d) a party's failure to pay the disputed invoice(s) shall not be deemed to be a breach of this Agreement, provided that the party pays the balance of the invoice which is not in dispute;
- (e) once the dispute has been resolved, where either party is required to make a balancing payment and/or issue an invoice/credit note, it shall do so within five (5) Business Days.

8.9 The Customer should send all payment remittance advices to:  
[accounts.receivable@astonmanor.co.uk](mailto:accounts.receivable@astonmanor.co.uk)

## **9. LPR and CHEP pallets**

9.1 All products supplied (with the exception of bulk liquid and products supplied on white heat-treated pallets) are delivered to the Customer on either LPR or CHEP pallets. The Customer must be registered with LPR and/or CHEP (respectively) and acknowledge receipt of the LPR and/or CHEP pallets on the LPR and/or CHEP system respectively. If any LPR and/or CHEP pallets delivered by the Supplier to the Customer are not acknowledged as received by the Customer on LPR and/or CHEP system respectively, the Supplier will levy the cost of non-acknowledged LPR and/or CHEP pallets to the customer at the cost levied by LPR/CHEP.

## **10. Limitation of liability**

10.1 Subject to clause 10.2, the restrictions on liability in this clause 10 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

10.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) defective products under the Consumer Protection Act 1987.

10.3 Subject to clause 10.2, the Supplier's total liability to the Customer for any Contract shall not exceed the price paid or payable by the Customer for the Products under that Contract exclusive of taxes.

10.4 Subject to clause 10.2, the following types of loss are wholly excluded:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

10.5 This clause 10 shall survive termination of the Contract.

## **11. Termination**

11.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen (14) days of that party being notified in writing to do so;
- (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

11.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Products under the Contract or any other Contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 11.1(b) to clause 11.1(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

11.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

- 11.4 On termination of a Contract for any reason, the Supplier shall be entitled to cancel any part of the Order under the Contract (or any other Contract) that has not been delivered without any liability to the Customer.
- 11.5 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Products supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 11.6 Other than as set out in Condition 11.4, termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 11.7 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## **12. Force majeure**

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract (other than payment to the other party) if such delay or failure results from a Force Majeure Event. In such circumstances, provided it notifies the other party promptly and makes reasonable endeavours to mitigate the effect of the Force Majeure Event on its performance and obligations, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for three (3) months, the party not affected may terminate the Contract by giving thirty (30) days' written notice to the affected party.

## **13. General**

### **13.1 Assignment and other dealings**

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

### **13.2 Confidentiality**

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.2(b).
- (b) Each party may disclose the other party's confidential information:
  - (i) to its employees, officers, representatives, or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 13.2; and
  - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- (d) The obligations of confidentiality set out in this Condition 13 shall endure for two (2) years following disclosure under this Condition 13, notwithstanding any termination of this Agreement.

13.3 **Non-Solicitation.** The Customer shall not, without the prior written consent of the Supplier, at any time up to the expiry of twelve (12) months after the termination or expiry of a Contract, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or sub-contractor of the Supplier in the provision of the Products.

13.4 **Entire agreement**

- (a) 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.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

13.5 **Variation.** No variation of a Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives). Any references to written agreement in these Conditions shall be subject to the requirements of this Condition.

13.6 **Waiver.** The rights and remedies of either party shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by that party to the

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

13.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal, or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 13.7 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

### 13.8 **Notices**

(a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- (i) delivered by hand or by recorded post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (ii) sent by email to the address.

(b) Any notice shall be deemed to have been received:

- (i) if delivered by hand, on signature of a delivery receipt;
- (ii) if sent by recorded post or other next working day delivery service, at the time recorded by the delivery service; and
- (iii) if sent by email, at the time of transmission, without any error, or out of office message being received.

If this time of receipt falls outside business hours in the place of receipt, the notice will be deemed received when business hours resume. In this clause 13.8(b)(iii), business hours means 9.00am to 5.00pm on a Business Day.

(c) This Condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

13.9 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

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