

# SHIFTEC TERMS AND CONDITIONS OF SALE

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following definitions apply:

- 'Background IPR'** means all intellectual property rights other than Foreground IPR in the Goods or Deliverables or used by us in the performance of the Services;
- 'Business Day'** means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;
- 'Buyer Materials'** means any documents or other materials, and any data or other information provided by you to us relating to the Goods and/or the Services;
- 'Conditions'** means these terms and conditions of sale;
- 'Confidential Information'** means any commercial, financial or technical information, information relating to the Goods, plans, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;
- 'Contract'** means the agreement between us and you for the sale and purchase of Goods incorporating these Conditions and the Order;
- 'Deliverables'** means any deliverable to be provided by us to you in the performance of the Services as specified in the Order;
- 'Force Majeure'** means an event or sequence of events beyond a party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or failure of supplies or other fuel, water, transport, equipment or telecommunications service, or material required for performance of the Contract, strike, lockout or boycott or other industrial action including strikes of power, industrial disputes involving you or its suppliers workforce, but excluding your inability to pay or circumstances resulting in your inability to pay;
- 'Foreground IPR'** means any Intellectual Property Rights created by us or on our behalf, solely in the performance of the Services for you and identified in writing as such in the Contract;
- 'Goods'** means the goods and related accessories, spare parts and documentation set out in the Order and to be supplied by us to you;
- 'Intellectual Property Rights'** means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in Confidential Information, rights to sue for passing off, domain names and all similar rights and, in each case, whether registered or not, including any applications to protect or register such rights, including all renewals and extensions of such rights or applications, whether vested, contingent or future, to which the relevant party is or may be entitled, and, in whichever part of the world existing;
- 'Order'** means an order for the Goods placed by you with us;
- 'Price'** has the meaning given in condition 3.1;
- 'Services'** means the services set out in the Order and to be supplied by us to you;
- 'Supplier Materials'** means any documents or other materials, and any data or other information provided by us to you relating to the Goods and/or the Services;
- 'Us'** or **'We'** means us Shiftec (Leamington) Ltd, company number 09907669 whose registered office is at 7 Hertford Street, London, United Kingdom, W1J 7RH;
- 'You'** means the person who purchases the Goods and/or Services from us and whose details are set out in the Order.
- 1.2 In these Conditions, unless the context requires otherwise:
- any condition, schedule or other headings in these Conditions is included for convenience only and will have no effect on the interpretation of the Conditions;
  - a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
  - a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
  - a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
  - words in the singular include the plural and vice versa;
  - any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions will be construed as illustrative only and will not limit the sense of any word, phrase, term, definition or description preceding those words;
  - a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time; and
  - a reference to legislation includes all subordinate legislation made under that legislation.
- 1.3 Where you are a consumer purchasing Goods and/or Services from us, condition 29 applies to the exclusion of other conditions concerning the same subject.

## 2. APPLICATION OF THESE CONDITIONS

- 2.1 These Conditions apply to and form part of the Contract between us and you. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in your purchase conditions, order, confirmation of order, specification or other document will form part of the Contract.
- 2.3 No variation of these Conditions or to an Order or to the Contract will be binding unless expressly agreed in writing and executed by a duly authorised signatory on our behalf.
- 2.4 Each Order from you to us will be an offer to purchase Goods and/or Services subject to these Conditions.
- 2.5 An Order may be withdrawn or amended by you at any time before acceptance by us.
- 2.6 The offer constituted by an Order will remain in effect and capable of being accepted by us for 14 Business Days from the date on which you submitted the Order, after which time it will automatically lapse and be withdrawn.
- 2.7 We may accept or reject an Order at our discretion. If we are unable to accept an Order, we shall notify you as soon as reasonably practicable. An Order will not be accepted, and no binding obligation to supply any Goods and/or Services will arise, until we give you written acceptance of the Order or (if earlier) we deliver the Goods and/or Services to you. Rejection by us of an Order, including any communication that may accompany such rejection, will not constitute a counter-offer capable of acceptance by you.
- 2.8 We may issue quotations to you from time to time. Quotations are invitations to treat only. They are not an offer to supply Goods and/or Services and are incapable of being accepted by you. Any quotation is given on the basis that no Contract will come into existence until we give you an acknowledgement of order in accordance with 2.7.
- 2.9 You acknowledge that you have not relied on any statement, promise or representation made or given by us or on our behalf which is not set out in the Contract. Nothing in these Conditions will exclude or limit our liability for fraudulent misrepresentation.
- 2.10 Marketing and other promotional material relating to the Goods and/or Services are illustrative only and do not form part of the Contract.

## 3. PRICE

- 3.1 The price for the Goods and/or Services will be as set out in the Order, or in default of such provision, will be calculated in accordance with our scale of charges in force from time to time (**Price**).
- 3.2 The Prices are exclusive of packaging, delivery, and insurance which will be charged in addition at our standard rates.
- 3.3 You must pay any applicable VAT to us as part of the Price.
- 3.4 We may increase the Prices at any time by giving you not less than 15 Business Days' notice in writing.

## 4. PAYMENT

- 4.1 Unless otherwise agreed in writing, you must pay us in cleared funds in Pounds Sterling prior to delivery of the Goods or performance of the Services.
- 4.2 Time for payment will be of the essence.
- 4.3 No payment will be deemed to have been received until we have received cleared funds.
- 4.4 All payments payable to us under the Contract will become due immediately upon termination of the Contract.
- 4.5 You must 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 Buyer has a valid court order requiring an amount equal to such deduction to be paid by us. All such payments will be made to us free and clear of, and without any withholding or deduction for, any and all present or future taxes, duties or other charges unless you are compelled by law to make such withholdings or deductions. If you are compelled by law to make any such withholding or deduction you must pay to us such additional amounts as are required to enable us to receive the amount which we would have received if no such withholding or deduction had been required.
- 4.6 If you fail to pay us any sum due under the Contract, we may at our discretion and without prejudice to any other rights that we may have:
- revoke any discounts that we may have previously agreed with you and the full standard price will be payable for any Goods or Services where payment is overdue and for all future Goods or Services to be delivered under the Contract;
  - require that you make payment in advance of any delivery not yet made irrespective of any other credit terms that may previously have been agreed;
  - claim interest and other sums due under the Late Payment of Commercial Debts (Interest) Act 1998;
  - suspend the performance of the Services or delivery of Goods; and/or
  - terminate the Contract with immediate effect.
- 4.7 In the event of a suspension of the contract in accordance with 4.6 above you will be required to pay a fee to us on recommencement of the Services or delivery of the Goods to reflect the additional costs that we incur as a result of the suspension. On payment of all outstanding sums we shall notify you of the applicable fee for recommencement of the Services or delivery of Goods and revised delivery dates for the same.
- 4.8 We have a lien on any of your equipment or goods in our possession for any unpaid balance which you may owe to us.

## 5. DELIVERY

- 5.1 Unless otherwise agreed in writing by us, delivery of the Goods and/or performance of the Services will take place at our place of business.
- 5.2 You must fulfil all your obligations as set out in the Contract and must provide all information, instructions and materials that we may reasonably request in order for us to deliver the Goods or perform the Services. You must take delivery of the Goods within 14 days of our notice to you that the Goods are ready for delivery.
- 5.3 Any dates we specify for delivery of the Goods and/or performance of the Services are intended to be an estimate and time for delivery and/or performance will not be of the essence. If no dates are so specified, delivery and/or performance will be within a reasonable time.

- 5.4 Subject to the other provisions of these Conditions, we shall not be liable for any losses whatsoever, whether direct, indirect or consequential (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 and/or performance of the Services (even if caused by our negligence), nor will any delay entitle you to terminate or rescind the Contract unless such delay exceeds 180 days.
- 5.5 If for any reason you fail to accept delivery of any of the Goods when they are ready for delivery, or we are unable to deliver the Goods on time for any reason due to your acts or omissions:
- risk in the Goods will pass to you;
  - the Goods will be deemed to have been delivered; and
  - we may store the Goods until delivery, and you will be liable for all related costs and expenses (including without limitation storage and insurance).
- 5.6 The quantity of any consignment of Goods as notified by us to you as being ready for delivery will be conclusive evidence of the quantity received by you on delivery unless you provide conclusive evidence in writing proving the contrary within 7 days of delivery.
- 5.7 We may deliver the Goods and/or perform the Services in separate instalments. Each instalment will be a separate Contract and no cancellation or termination of any one Contract relating to an instalment will entitle you to repudiate or cancel any other Contract or instalment.
- 5.8 We shall not be liable for any non-delivery of Goods and/or non-performance of the Services (even if caused by our negligence) unless you give us written notice within 7 days of the date when the Goods and/or Services would in the ordinary course of events have been delivered/performed that we did not make the Goods ready for delivery or did not perform the Services.
- 5.9 Any liability we may have for non-delivery of the Goods and/or non-performance of the Services will be limited to replacing the Goods and/or performing the Services within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods and/or Services.
- 5.10 We shall not be liable for any delay in or failure of performance caused by:
- your failure to either: make available any location that you specify or request, and that we agree, to deliver or perform the Goods and/or Services at (the Location), prepare such Location in accordance with the our instructions or as might reasonably be required for the Goods and/or Services, or, provide us with adequate instructions for performance or delivery or otherwise relating to the Goods and/or Services; or
  - Force Majeure.

## 6. RISK & TITLE

- 6.1 Risk in the Goods will pass to you on delivery.
- 6.2 Title to the Goods will pass to you once we have received payment in full and cleared funds for the Goods.
- 6.3 Until title to the Goods has passed to you, you must:
- hold the Goods as our bailee;
  - store the Goods separately from all other material in your possession;
  - take all reasonable care of the Goods and keep them in the condition in which they were delivered;
  - insure the Goods from the date of delivery; with a reputable insurer, against all risks, for an amount at least equal to their Price, and noting our interest on the policy;
  - ensure that the Goods are clearly identifiable as belonging to us;
  - not remove or alter any mark on or packaging of the Goods;
  - inform us immediately if you become subject to any of the events or circumstances set out in condition 13.1(d); and
  - on reasonable notice permit us to inspect the Goods during your normal business hours and provide us with such information concerning the Goods as we may request.
- 6.4 Notwithstanding condition 6.3, you may use or resell the Goods in the ordinary course of its business until such time as you become aware or ought reasonably to have become aware that an event specified in condition 13.1(d) has occurred or is likely to occur.
- 6.5 If you resell the Goods in accordance with condition 6.4, title to the Goods will pass to you immediately prior to the resale.
- 6.6 If, at any time before title to the Goods has passed to you, you inform us, or we reasonably believe, that you have or are likely to become subject to any of the events specified in 13.1(d), we may, require you at your expense to re-deliver the Goods to us; and if you fail to do so promptly, enter any premises where the Goods are stored and repossess them.

## 7. WARRANTY

- 7.1 We warrant to you that:
- upon delivery of the Goods they will;
    - conform in all material respects to any sample, their description and to any specification set out in the Order;
    - be reasonably fit for the purpose it was originally intended for as set out in any specification sheet or, if no such specification sheet exists, the Order; and
    - be free from material defects in design, material and workmanship; or
  - Services will be supplied with reasonable care and skill, with no guarantee or warranty as to achieving particular outcomes.
- 7.2 Unless otherwise specified in the Contract or as otherwise agreed in writing by us, you must be solely responsible for the installation, calibration, configuration, operation, use and maintenance of the Goods and Deliverables as applicable for your requirements and you must fully and effectively indemnify us and keep us indemnified from and against any and all loss, actions, demands, proceedings, costs expenses, liabilities, judgments, damages or other sanctions, whenever arising, directly or indirectly as a result of the installation, calibration, configuration, operation, use and maintenance of the Goods and Deliverables.
- 7.3 Except as set out in this condition 7:
- we give no warranties and make no representations in relation to the Goods and/or Services;
  - we shall have no liability for their failure to comply with the warranty in condition 7.1; and
  - all warranties and conditions (including the conditions implied by ss 12-16 of the Supply of Goods and Services Act 1982 and ss 13-15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.
- 7.4 We shall not be liable for a breach of the warranties in condition 7.1 unless you:
- provide to us a written notice with sufficient information as to the nature and extent of the defects not later than 5 Business Days from delivery or performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from delivery or performance in the case of latent defects; and
  - give us a reasonable opportunity to examine the claim of the defective Goods and/or Services.
- 7.5 The provisions of these Conditions, including the warranties set out in condition 7.1, will apply to any Goods and/or Services that are repaired or replaced with effect from delivery or performance of the repaired, replaced, re-performed or refunded Goods and/or Services.
- 7.6 We shall not be liable for any failure of the Goods and/or Services to comply with condition 7.1:
- where such failure arises by reason of wear and tear, wilful damage, negligence, or could be expected to arise in the normal course of use of the Goods;
  - where such failure results due to the vicissitudes of, motorsport, performance aftermarket, testing, recreational off-road, and competition use;
  - to the extent caused by your failure to comply with our instructions in relation to the Goods, including any instructions on installation, operation, storage or maintenance;
  - to the extent caused by us following any specification or requirement of you in relation to the Deliverables;
  - where you modify any Deliverables; or
  - where you use or rely on any of the Deliverables after notifying us that they do not comply with condition 7.1.
- 7.7 Subject to condition 7.4 and 7.6, if any of the Goods, Deliverables or Services do not conform with any of the warranties in condition 7.1 we shall at our option repair or replace such Goods, Deliverables or Services (or the defective part) or re-perform any affected Services or refund the price of such Goods or Services at the pro rata Contract rate provided that, if we request it, you must, at your expense, return the Goods or Deliverables or the part of such Goods or Deliverables which is defective to us.
- 7.8 If we comply with condition 7.7 we shall have no further liability for a breach of any of the warranties in condition 7.1 in respect of such Goods.

## 8. COMPLIANCE WITH LAWS

- 8.1 Each party must comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and must maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract, including complying with their obligations under the Bribery Act 2010 and Modern Slavery Act 2015 as appropriate.
- 8.2 Each party must immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this condition 8.1.

## 9. INDEMNITY

- 9.1 You must indemnify us from and against any losses, damages, liability, costs (including legal fees) and expenses which we may suffer or incur directly or indirectly from your breach of any of your obligations under the Contract.

## 10. LIMITATION OF LIABILITY

- 10.1 Notwithstanding any other provision of these Conditions, the following provisions set out our entire financial liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you in respect of:
- any breach of these Conditions;
  - any use made or resale by you of any of the Goods, Deliverables or Services, or of any product incorporating any of the Goods, Deliverables or Services;
  - the performance of the Services and/or supply of the Goods; and

- (d) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these Conditions excludes or limits our liability for:
- (a) death or personal injury caused by our negligence; or
- (b) any matter which it would be illegal for us to exclude or attempt to exclude its liability; or
- (c) fraud or fraudulent misrepresentation.
- 10.4 We shall have no liability to you for any loss, damage, costs, expenses or other claims for:
- (a) compensation arising from any instructions provided by you relating to the Services which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form or arising from their late arrival or non-arrival, or
- (b) any other matter that is your fault.
- 10.5 Subject to Conditions 10.2, 10.3 and 10.4:
- (a) our 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 will be limited to the total value of the Goods and/or Services supplied under the Contract; and
- (b) we shall not be liable to you for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 10.6 You agree and accept that the limitations and exclusions of liability set out in these Conditions are reasonable in all the circumstances and recognises that we were to accept additional liabilities it may not be possible for us to provide the Goods or Services in accordance with the Contract at all or for the agreed price.

## 11. INTELLECTUAL PROPERTY

- 11.1 The Intellectual Property Rights in any Supplier Materials will, unless otherwise agreed in writing between us and you, belong to us, subject only to a licence in your favour to use any Supplier Materials necessary for the purposes of using the Goods or receiving the Services.
- 11.2 The Intellectual Property Rights in any Buyer Materials will, unless otherwise agreed in writing between you and us, belong to you. You warrant that any Buyer Materials and our use of them for the purpose of providing the Goods and/or Services will not infringe the Intellectual Property Rights of any third party and you must indemnify us and keep us indemnified against any loss, damages, costs, expenses or other claims arising from any such infringements.
- 11.3 You must obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the use of Buyer Materials in all cases before the date on which we are to supply the Goods and/or Services.
- 11.4 If we manufacture the Goods, or apply any process to the Goods, or provide the Services in accordance with a specification or other instructions provided to us by you for those purposes, you must indemnify us and keep us indemnified against all loss, damage costs and expenses awarded against or incurred by us in connection with or paid or agreed to be paid by us in settlement of any claim from any third party whether for infringement of any Intellectual Property Rights of any other person or otherwise which results from our use of the same.
- 11.5 We shall exclusively own all Background IPR and Foreground IPR. We shall grant you a licence to use:
- (a) the Background IPR in any Goods solely to the extent necessary for you to sell, use or operate the Goods, but you will have no other rights to use any Background IPR; and
- (b) the Background IPR and Foreground IPR in any Deliverables solely for the purpose specified in the Contract and, if not otherwise specified, solely for the purpose of using the Deliverables in your own business and subject thereto you will not be permitted to sell, copy, reproduce, develop or otherwise use any of the Foreground IPR in any way whatsoever.

## 12. CONFIDENTIALITY AND ANNOUNCEMENTS

- 12.1 You must keep confidential all of our Confidential Information and must only use the same as required to perform the Contract. The provisions of this condition will not apply to:
- (a) any information which was in the public domain at the date of the Contract;
- (b) any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement; or
- (c) any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- This condition will remain in force for a period of ten years from the date of the Contract and, if longer, 3 years after termination of the Contract.
- 12.2 You consent that we may freely, and without restriction, publicise our involvement in any application in which you utilise our Goods and/or Services once such application has itself been presented in the public domain by you. We shall look to coordinate release of such information with you.
- 12.3 In order to facilitate 12.2 you consent to our use of images, video and associated media of your application in our own marketing and promotional material providing such material does not disclose any detail of your application which has not previously been made available in the public domain. Your consent to the use of such images shall be sought but not unreasonably withheld.

## 13. TERMINATION

- 13.1 We may terminate the Contract or any other contract which we have with you at any time by giving you written notice if:
- (a) you commit a material breach of the Contract and such breach is not remediable;
- (b) you commit a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;
- (c) any consent, licence or authorisation you hold is revoked or modified such that you are no longer able to comply with its obligations under the Contract or receive any benefit to which you are entitled;
- (d) you:
- (i) stop carrying on all or a significant part of your business, or indicates in any way that you intend to do so;
- (ii) are unable to pay your debts either within the meaning of section 123 of the Insolvency Act 1986 or if we reasonably believe that to be the case;
- (iii) become the subject of a company voluntary arrangement under the Insolvency Act 1986;
- (iv) have a receiver, manager, administrator or administrative receiver appointed over all or any part of your undertaking, assets or income;
- (v) have a resolution passed for your winding up;
- (vi) have a petition presented to any court for your winding up or an application is made for an administration order, or any winding-up or administration order is made against you;
- (vii) are subject to any procedure for the taking control of its goods that is not withdrawn or discharged within 7 days of that procedure being commenced;
- (viii) have a freezing order made against you;
- (ix) are subject to any recovery or attempted recovery of items supplied to you by a supplier retaining title in those items;
- (x) are subject to any events or circumstances analogous to those in conditions 13.1 in any jurisdiction; or
- (xi) takes any steps in anticipation of, or have no realistic prospect of avoiding, any of the events or procedures described in conditions 13.1 including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
- 13.2 We may terminate the Contract at any time by giving not less than 30 Business Days' notice in writing to you if you undergo a change of Control.
- 13.3 If you become aware that any event has occurred, or circumstances exist, which may entitle us to terminate the Contract under this condition 13, you must immediately notify us in writing.
- 13.4 Termination or expiry of the Contract will not affect any of our accrued rights and liabilities up to the date of termination.

## 14. FORCE MAJEURE

- 14.1 A party will not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it promptly notifies the other of the Force Majeure event and its expected duration and uses reasonable endeavours to minimise the effects of that event.
- 14.2 If, due to Force Majeure, a party:
- (a) is or will be unable to perform a material obligation; or
- (b) is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days or total of more than 30 days in any consecutive period of 60 days;
- the other party may, within 30 days, terminate the Contract on immediate notice the parties will, within 30 days, renegotiate the Contract to achieve, as nearly as possible, the original commercial intent.

## 15. DISPUTE RESOLUTION

- 15.1 In the event of a dispute arising out of or in connection with each Contract, the parties must use all reasonable endeavours to reach a negotiated resolution within 7 days of either party serving a notice in writing on the other party that a dispute has arisen. Following service of a notice, the parties will meet to discuss the dispute and attempt to resolve it.
- 15.2 If the dispute has not been resolved within 7 days of the meeting under condition 15.1 the parties will be free to commence formal legal proceedings.

## 16. NOTICES

- 16.1 Any notice or other communication given by a party under these Conditions will:
- (a) be in writing and in English;
- (b) be signed by, or on behalf of, the party giving it; and
- (c) be sent to the relevant party at the address set out in the Contract

- 16.2 Notices may be given, and are deemed received:
- (a) by hand: on receipt of a signature at the time of delivery;
- (b) by post: at 9.00 am on the second Business Day after posting;
- (c) by international post: at 9.00 am on the fourth Business Day after posting; or
- (d) by email: on receipt of a delivery receipt email from the correct address.
- 16.3 Any change to the contact details of a party as set out in the Contract will be notified to the other party in accordance with condition 16.1 and will be effective:
- (a) on the date specified in the notice as being the date of such change; or
- (b) if no date is so specified, 1 Business Days after the notice is deemed to be received.
- 16.4 This condition 16 does not apply to notices given in legal proceedings or arbitration.

## 17. CUMULATIVE REMEDIES

- 17.1 The rights and remedies provided in the Contract for us only are cumulative and not exclusive of any rights and remedies provided by law.

## 18. FURTHER ASSURANCE

- 18.1 You must at our request, and at your own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

## 19. ENTIRE AGREEMENT

- 19.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 19.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and will have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party will have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract. Nothing in these Conditions purports to limit or exclude any liability for fraud.

## 20. VARIATION & ASSIGNMENT

- 20.1 No variation of the Contract will be valid or effective unless it is in writing, refers to the Contract and is duly signed or executed by a duly authorised signatory on our behalf.
- 20.2 You may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without our prior written consent, such consent not to be unreasonably withheld or delayed.

## 21. EQUITABLE RELIEF

- 21.1 You recognise that any breach or threatened breach of the Contract may cause us irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to us, you acknowledge and agree that we are entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

## 22. SEVERANCE & WAIVER

- 22.1 If any provision of the Contract or Conditions (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract or Conditions will not be affected.
- 22.2 No failure, delay or omission by us in exercising any right, power or remedy provided by law or under the Contract will operate as a waiver of that right, power or remedy, nor will it preclude or restrict any future exercise of that or any other right, power or remedy.

## 23. CONFLICTS WITHIN CONTRACT

- 23.1 If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions will prevail.

## 24. COSTS AND EXPENSES

- 24.1 You must pay your own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).

## 25. THIRD PARTY RIGHTS

- 25.1 A person who is not a party to the Contract will have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

## 26. GOVERNING LAW & JURISDICTION

- 26.1 The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) will be governed by, and construed in accordance with, the laws of England and Wales.
- 26.2 The parties irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).

## 27. ADDITIONAL CONSUMER RIGHTS

- 27.1 The rights set out in this condition 27 apply where you are purchasing Good and/or Services from us and you are a consumer to the exclusion of conditions set out elsewhere in these Conditions concerning the same subject matter.
- 27.2 You have the right to cancel this Contract within 14 days without giving any reason. The cancellation period will expire after 14 days from whichever of the following days is applicable to your Order:
- (a) in the case of a Contract relating to multiple items ordered by you in one order and delivered separately, the day on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the items;
- (b) in the case of a Contract consisting of multiple items, the day on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last items ordered.
- 27.3 To exercise the right to cancel, you must inform us of your decision to cancel this Contract by a clear statement (eg a letter sent by post, fax or email).
- 27.4 To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.
- 27.5 If you cancel this Contract, we will reimburse to you all payments received from you, including the costs of delivery (except for the supplementary costs arising if you chose a type of delivery other than the least expensive type of standard delivery offered by us).
- 27.6 We will make the reimbursement without undue delay, and not later than:
- (a) 14 days after the day we received back from you any Goods supplied; or
- (b) (if earlier) 14 days after the day you provide evidence that you have returned the Goods; or
- (c) if there were no Goods supplied, 14 days after the day on which we are informed about your decision to cancel this Contract.
- 27.7 We will make the reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement.
- 27.8 If you have received Goods from us and you want to return them to us because they are unwanted you must send back the Goods, without undue delay and in any event not later than 14 days from the day on which you communicate your cancellation from this contract to us. The deadline is met if you send back the goods before the period of 14 days has expired.
- 27.9 In all cases where you return unwanted Goods to us, we may deduct from your refunded purchase price the amount by which the Goods have reasonably decreased in value resulting from you handling them more than is necessary to establish the nature, characteristics and functioning of the Goods. The extent to which you can handle the Goods is the same as it would be if you were assessing them in a shop.