

## J. & P. Supplies Limited – Terms and Conditions of Purchase

### 1. Interpretation

1.1 The following definitions and rules of interpretation apply in these Conditions.

1.2 Definitions:

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

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 15.10.

**Contract:** the contract between J&P and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** will be construed accordingly.

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Delivery Location:** has the meaning given in clause 4.2.2.

**Goods:** the goods (or any part of them) set out in the Order.

**Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by J&P and the Supplier.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**J&P:** J.& P. Supplies Limited registered in England and Wales with company number 00438581.

**J&P Materials:** has the meaning set out in clause 5.3.9.

**Order:** J&P's order for Goods and/or Services, as set out in J&P's purchase order form, in J&P's written acceptance of the Supplier's quotation, as communicated by J&P to the Supplier by email or telephone or as set out overleaf, as the case may be.

**Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

**Service Specification:** the description or specification for Services agreed in writing by J&P and the Supplier.

**Supplier:** the person or firm from whom J&P purchases the Goods and/or Services.

1.3 Interpretation:

1.4 A reference to:

1.4.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

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- 1.4.2 a reference to legislation or a legislative provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that legislation or legislative provision;
- 1.4.3 any words following the terms **including** or **include** or any similar expression will be construed as illustrative and will not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.4.4 **writing** or **written** includes email but not fax.
2. **Basis of Contract**
- 2.1 The Order constitutes an offer by J&P to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order will be deemed to be accepted on the earlier of:
- 2.2.1 the Supplier issuing written acceptance of the Order; or
- 2.2.2 any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Contract will come into existence (**Commencement Date**).
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.4 All of these Conditions will apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 2.5 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
3. **Supply of Goods**
- 3.1 The Supplier will ensure that the Goods will:
- 3.1.1 correspond with their description and any applicable Goods Specification;
- 3.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by J&P, expressly or by implication, and in this respect J&P relies on the Supplier's skill and judgement;
- 3.1.3 where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery;
- 3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
- 3.1.5 comply with any other requirements set out in the Order.
- 3.2 The Supplier will ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.3 J&P may inspect and test the Goods at any time before delivery. The Supplier will remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing will not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.4 If following such inspection or testing J&P considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, J&P will inform the Supplier and the Supplier will immediately take such remedial action as is necessary to ensure compliance.
- 3.5 J&P may conduct further inspections and tests after the Supplier has carried out its remedial actions.

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### 4. Delivery of Goods

- 4.1 The Supplier will ensure that:
- 4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - 4.1.2 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
  - 4.1.3 it states clearly on the delivery note any requirement for J&P to return any packaging material for the Goods to the Supplier. Any such packaging material will only be returned to the Supplier at the Supplier's cost.
- 4.2 The Supplier will deliver the Goods:
- 4.2.1 on the date specified in the Order or, if no such date is specified, then within 4 weeks of the date of the Order;
  - 4.2.2 to J&P's premises at Junction Road, Audnam, Stourbridge, West Midlands, DY8 4YH or such other location as is set out in the Order or as instructed by J&P before delivery (**Delivery Location**); and
  - 4.2.3 during J&P's normal hours of business on a Business Day, or as instructed by J&P.
- 4.3 The Supplier will give J&P reasonable advance notice of the date for delivery of the Goods if a delivery date is not specified in the Order.
- 4.4 Delivery of the Goods will be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.5 If the Supplier:
- 4.5.1 delivers less than 95% of the quantity of Goods ordered, J&P may reject the Goods; or
  - 4.5.2 delivers more than 105% of the quantity of Goods ordered, J&P may at its sole discretion reject the Goods or the excess Goods,
- and any rejected Goods will be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and J&P accepts the delivery, the Supplier will make a pro rata adjustment to the invoice for the Goods.
- 4.6 The Supplier will not deliver the Goods in instalments without J&P's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment will entitle J&P to the remedies set out in clause 6.1.
- 4.7 Title and risk in the Goods will pass to J&P on completion of delivery.

### 5. Supply of Services

- 5.1 The Supplier will from the date set out in the Order and for the duration of the Contract supply the Services to J&P in accordance with the terms of the Contract.
- 5.2 The Supplier will meet any performance dates for the Services specified in the Order or that J&P notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 5.3 In providing the Services, the Supplier will:
- 5.3.1 co-operate with J&P in all matters relating to the Services, and comply with all instructions of J&P;

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- 5.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 5.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- 5.3.4 ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables will be fit for any purpose that J&P expressly or impliedly makes known to the Supplier;
- 5.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 5.3.6 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to J&P, will be free from defects in workmanship, installation and design;
- 5.3.7 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 5.3.8 observe all health and safety rules and regulations and any other security requirements that apply at any of J&P's premises;
- 5.3.9 hold all materials, equipment and tools, drawings, specifications and data supplied by J&P to the Supplier (**J&P Materials**) in safe custody at its own risk, maintain J&P Materials in good condition until returned to J&P, and not dispose or use J&P Materials other than in accordance with J&P's written instructions or authorisation;
- 5.3.10 not do or omit to do anything which may cause J&P to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that J&P may rely or act on the Services;
- 5.3.11 comply with any additional obligations as set out in the Service Specification and/or the Order.

**6. Customer Remedies**

- 6.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, J&P will, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
  - 6.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 6.1.2 to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
  - 6.1.3 to recover from the Supplier any costs incurred by J&P in obtaining substitute goods and/or services from a third party;
  - 6.1.4 to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
  - 6.1.5 to claim damages for any additional costs, loss or expenses incurred by J&P which are in any way attributable to the Supplier's failure to meet such dates.
- 6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, J&P will have one or more of the following rights and remedies, whether or not it has accepted the Goods:
  - 6.2.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;

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- 6.2.2 to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
  - 6.2.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
  - 6.2.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - 6.2.5 to recover from the Supplier any expenditure incurred by J&P in obtaining substitute goods from a third party; and
  - 6.2.6 to claim damages for any additional costs, loss or expenses incurred by J&P arising from the Supplier's failure to supply Goods in accordance with clause 3.1.
- 6.3 If the Supplier has supplied Services that do not comply with the requirements of clause 5.3.4 then, without limiting or affecting other rights or remedies available to it, J&P will have one or more of the following rights and remedies:
- 6.3.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 6.3.2 to return the Deliverables to the Supplier at the Supplier's own risk and expense;
  - 6.3.3 to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
  - 6.3.4 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
  - 6.3.5 to recover from the Supplier any expenditure incurred by J&P in obtaining substitute services or deliverables from a third party; and
  - 6.3.6 to claim damages for any additional costs, loss or expenses incurred by J&P arising from the Supplier's failure to comply with clause 5.3.4.
- 6.4 These Conditions will extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 6.5 J&P's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.
7. **J&P's Obligations**  
J&P will provide the Supplier with reasonable access at reasonable times to J&P's premises for the purpose of the Supplier providing the Services and provide such necessary information for the provision of the Services as the Supplier may reasonably request.
8. **Charges and Payment**
- 8.1 The price for the Goods will be the price set out in the Order which will be inclusive of the costs of packaging, drums, containers, insurance and carriage of the Goods and inclusive of any applicable duties, imposts or levies. No extra charges will be effective unless agreed in writing and signed by J&P.
  - 8.2 The charges for the Services will be set out in the Order, and will be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by J&P, the charges will include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
  - 8.3 Except (i) in respect of Goods delivered to J&P in a sale or return context when the Supplier will only be entitled to invoice J&P after it has received notification that the Goods have been sold by J&P or (ii) in respect of Goods delivered subject to performance tests when the Supplier will only



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be entitled to invoice J&P after it has received notification from J&P that the performance tests have been satisfactorily completed:

- 8.3.1 in respect of the Goods, the Supplier will invoice J&P on or at any time after completion of delivery;
- 8.3.2 in respect of Services, the Supplier will invoice J&P on completion of the Services.
- 8.4 Each invoice will include such supporting information required by J&P to verify the accuracy of the invoice, including the relevant purchase order number.
- 8.5 In consideration of the supply of Goods and/or Services by the Supplier, J&P will pay the invoiced amounts within 60 days after the end of month of receipt of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 8.6 All amounts payable by J&P under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to J&P, J&P will, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 8.7 The Supplier will maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier will allow J&P to inspect such records at all reasonable times on request.
- 8.8 J&P may at any time, without notice to the Supplier, set off any liability of the Supplier to J&P (or any J&P group company) against any liability of J&P to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, J&P may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by J&P of its rights under this clause 8.8 will not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 9. **Intellectual Property Rights**
  - 9.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any J&P Materials) will be owned by the Supplier.
  - 9.2 The Supplier grants to J&P, or will procure the direct grant to J&P of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding J&P Materials) for the purpose of receiving and using the Services and the Deliverables.
  - 9.3 J&P grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by J&P to the Supplier for the term of the Contract for the purpose of providing the Services to J&P.
  - 9.4 The Supplier acknowledges that all rights in J&P Materials are and will remain the exclusive property of J&P.
- 10. **Indemnity**
  - 10.1 The Supplier will indemnify J&P 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 costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by J&P arising out of or in connection with:
    - 10.1.1 any claim made against J&P for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture,

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supply or use of the Goods, or receipt, use or supply of the Services (excluding J&P Materials);

10.1.2 any claim made against J&P by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and

10.1.3 any claim made against J&P by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.

10.2 This clause 10 will survive termination of the Contract.

### **11. Insurance**

During the term of the Contract and for a period of 1 year thereafter, the Supplier will maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and will, on J&P's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

### **12. Compliance With Laws**

12.1 In performing its obligations under the Contract, the Supplier will comply with all applicable laws, statutes, regulations and codes from time to time in force.

12.2 Each party will, at its own expense, ensure that it complies with and assists the other party to comply with the requirements of all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including (i) the Data Protection Act 2018 and any successor UK legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK). Each party will ensure that it has all necessary consents and notices in place to enable the lawful transfer of personal data to the other for the purposes of each party fulfilling its obligations under the Contract. Neither party will use or disclose personal data provided to it by the other in connection with the Contract other than for the purpose of fulfilling the Contract.

12.3 J&P may immediately terminate the Contract for any breach of this clause 12 by the Supplier.

### **13. Termination**

13.1 J&P will be entitled to cancel an Order in respect of all or part only of the Goods and/or the Services by giving notice to the Supplier at any time prior to delivery of the Goods or performance of the Services. In the event of such cancellation, J&P's sole liability will be to pay to the Supplier the price for any Goods which have at the time of cancellation already been manufactured by the Supplier specifically for J&P and/or Services in respect of which J&P has exercised its right of cancellation, less the Supplier's net saving of cost arising from J&P's cancellation. In the case of Goods which are standard or off-the-shelf products, J&P's cancellation will be without liability and J&P will not be required to pay for the Goods. Upon cancellation by J&P, the Supplier will not be entitled to any payment representing loss of anticipated profits or any consequential loss or for any losses in relation to management time incurred by the Supplier.

13.2 Without affecting any other right or remedy available to it, J&P may terminate the Contract:

13.2.1 with immediate effect by giving written notice to the Supplier if there is a change of Control of the Supplier;

13.2.2 for convenience by giving the Supplier 1 month's written notice.

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- 13.3 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 13.3.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 7 days after being notified in writing to do so;
  - 13.3.2 the other party 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 or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - 13.3.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - 13.3.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy.
14. **Consequences of Termination**
- 14.1 On termination of the Contract, the Supplier will immediately deliver to J&P all Deliverables whether or not then complete, and return all J&P Materials. If the Supplier fails to do so, then J&P may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier will be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 14.2 Termination or expiry of the Contract will not affect 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.
- 14.3 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 will remain in full force and effect.
15. **General**
- 15.1 **Confidentiality.** Each party undertakes that it will not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by this clause 15.1. Each party may disclose the other party's confidential information (i) to its employees, officers, representatives, contractors, subcontractors 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 and (ii) and as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. Each party will ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 15.1. Neither party will 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.
- 15.2 **Assignment and other dealings.** J&P may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract. The Supplier will not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of J&P.



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- 15.3 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of J&P. If J&P consents to any subcontracting by the Supplier, the Supplier will remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 15.4 **Notices.** Any formal notice given to a party under or in connection with the Contract will be in writing and will be delivered by hand or by pre-paid first-class 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). Any such formal notice will be deemed to have been received, if delivered by hand, at the time the notice is left at the proper address and if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting. This clause 15.4 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. A notice given under the Contract is not valid if sent only by email.
- 15.5 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it will be deemed deleted, but that will not affect the validity and enforceability of the rest of this Agreement. If any provision of the Contract is deemed deleted under this clause 15.5 the parties will negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 15.6 **Waiver.** Except as set out in clause 2.5, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will 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 will prevent or restrict the further exercise of that or any other right or remedy.
- 15.7 **No partnership or agency.** Nothing in the Contract is intended to, or will be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 15.8 **Entire agreement.** The 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.
- 15.9 **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.
- 15.10 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, will be effective unless it is agreed in writing and signed by the parties or their authorised representatives.
- 15.11 **Governing law and Jurisdiction.** 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 will be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.