

## TERMS AND CONDITIONS

**The Customer's attention is particularly drawn to the provisions of clause 13 (Limitation of liability).**

### 1. Interpretation

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

#### 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:** these terms and conditions as amended from time to time in accordance with clause 17.8.

**Contract:** the contract between the Supplier and the Customer for the supply of Products and/or Services in accordance with these Conditions.

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

**Deliverables:** the deliverables set out in the Order produced by the Supplier for the Customer.

**Delivery Location:** has the meaning given in clause 5.1, 5.2 or 5.3(as relevant).

**Force Majeure Event:** has the meaning given to it in clause 16.

**Intellectual Property Rights:** all intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** the Customer's order for the supply of Products and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, or overleaf, as the case may be.

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

**Products Specification:** any specification for the Products, including any relevant plans or drawings, that is agreed by the Customer and the Supplier.

**Services:** the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification and any maintenance of any Customer-owned tooling.

**Service Specification:** the description or specification for the Services provided in writing by the Supplier to the Customer.

**Supplier:** the Merriott Plastics Group company which supplies the Products and/or Services.

**Supplier Materials:** has the meaning given in clause 9.1(g).

#### 1.2 Interpretation:

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

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(b) A reference to **writing** or **written** includes email but not fax.

## 2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Products and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence.
- 2.3 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.
- 2.4 All of these Conditions shall apply to the supply of both Products and Services except where application to one or the other is specified.

## 3. Products

- 3.1 The Products are described in the Products Specification.
- 3.2 To the extent that the Products are to be manufactured in accordance with a Products 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 costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or 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 Products Specification. This clause 3.2 shall survive termination of the Contract.

## 4. Tooling

- 4.1 Except where clause 4.2 applies, the Customer shall promptly provide to the Supplier all tooling required in respect of the Products and/or Services.
- 4.2 In circumstances where the Supplier agrees with the Customer in writing (including as set out in the Order) to manufacture the required tooling or to otherwise procure the required tooling:
- (a) the Customer shall pay the Supplier for the costs of manufacture of such tooling or the cost to the Supplier of obtaining such tooling, such costs and payment terms as set out in writing and agreed by the Customer and Supplier;
  - (b) upon payment by the Customer to the Supplier in full of the costs referred to in clause 4.2(a), the Supplier shall transfer ownership of such tooling to the Customer;
  - (c) the Supplier shall produce a pre-production sample for the Customer and Customer approval of such sample constitutes the Customer's approval that the tooling manufactured or procured by the Supplier is acceptable.

- 4.3 The Customer shall pay the Supplier for any repairs and/or modifications required in respect of any tooling (whether such tooling is supplied by the Customer or the Supplier).
- 4.4 The Supplier reserves the right to charge the Customer for the costs and expenses relating to the storing of any tooling.
- 4.5 The Supplier may maintain tooling from time to time supplied to it by the Customer, but reserves right to charge the Customer for the costs of maintenance in circumstances where tooling requires material maintenance.
- 4.6 If tooling cannot be repaired, reaches the end of its life or otherwise cannot be used by the Supplier in respect of the supply of the Products and/or Services to the Customer, the Customer shall promptly replace such tooling at the Customer's cost.
- 4.7 The Customer is responsible for maintaining adequate insurance in respect of tooling which it provides to the Supplier or which the Supplier procures or manufactures for the Customer. The Supplier, whilst such tooling is at its premises, shall insure such tooling for loss and damage to the tooling for such amounts as a prudent owner or operator of tooling would insure for.
- 5. Delivery of Products**
- 5.1 The Customer shall collect the Products from the Supplier's premises specified in the Order or such other location as may be agreed with the Customer before delivery (**Delivery Location**) on the date specified in the Order, or on such other date as the Supplier may notify to the Customer that the Products will be ready.
- 5.2 If the Order specifies that the Supplier shall use a carrier chosen and organised by the Customer to deliver the Products to the Customer, then the Supplier shall deliver the Products to the carrier (**Delivery Location**) at any time after the Products are ready.
- 5.3 If the Order specifies that the Supplier shall use a carrier of its choosing to deliver the Products to the Customer then the Supplier shall deliver the Products to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready
- 5.4 Delivery of the Products shall be completed:
- (a) in the case of delivery pursuant to clauses 5.1 or 5.2, immediately before loading of the Products at the relevant Delivery Location; or
  - (b) in the case of delivery pursuant to clause 5.3, immediately before unloading of the Products at the Delivery Location.
- 5.5 Any dates quoted for delivery of the Products 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, or the provision of relevant tooling required for the supply of the Products.

- 5.6 If the Supplier fails to deliver the Products, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement products of similar description and quality in the cheapest market available, less the price of the Products. The Supplier shall have no liability for any failure to deliver the Products 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 for the Products or any relevant instruction related to the supply of the Products.
- 5.7 If the Customer fails to take or accept delivery of the Products (as relevant) on the date specified in the Order, or on such other date as the Supplier may notify to the Customer that the Products will be ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Products:
- (a) delivery of the Products shall be deemed to have been completed at 9.00 am on the first Business Day following the date specified in the Order, or on such other date as the Supplier notified the Customer that the Products would be 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).
- 5.8 If the Supplier delivers up to and including 10% more or less than the quantity of Products ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Products was delivered, the Supplier shall make a pro rata adjustment to the invoice for the Products.
- 5.9 The Supplier may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 6. Quality of Products**
- 6.1 The Supplier warrants that on delivery, and for a period of 2 months from the date of delivery (**warranty period**), the Products shall:
- (a) conform in all material respects with the Products Specification;
  - (b) be free from material defects in material and workmanship; and
  - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 6.2 The Products are not intended to come into contact with food. If the Customer intends for the Products to be used in a situation where they will, or may, come into contact with food, then the Customer will provide written notice to the Supplier and the Supplier shall only be liable under the warranty in clause 6.1 above if the Supplier has received such notice and it has been accepted in writing by the Supplier (including, if specified in the Product Specification). In providing any such acceptance, the Supplier may set out the conditions and instructions which must be complied with and followed in respect of the Products coming into contact with food.
- 6.3 Subject to clause 6.4, the Supplier shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full if:

- (a) the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 6.1;
- (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 at the Customer's cost.

6.4 The Supplier shall not be liable for the Products' failure to comply with the warranty in clause 6.1 if:

- (a) the Customer makes any further use of such Products after giving a notice in accordance with clause 6.3;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice;
- (c) the defect arises because the Products have come into contact with food without the authorisation of the Supplier in accordance with clause 6.2;
- (d) the defect arises because the Customer failed to comply with or failed to follow any of the Supplier's conditions and/or instructions referred to in with clause 6.2;
- (e) the defect arises as a result of the Supplier following any drawing, design or Products Specification supplied by the Customer;
- (f) the Customer alters or repairs such Products without the written consent of the Supplier;
- (g) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (h) the Products differ from the Products Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

6.5 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 6.1.

6.6 The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including but not limited to 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 the Supplier arising out of or in connection with any failure of the Customer to comply with all or any part of clause 6.2.

6.7 The terms of these Conditions shall apply to any repaired or replacement Products supplied by the Supplier.

## 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 earlier of:

- (a) the Supplier receives payment in full (in cash or cleared funds) for the Products and any other products that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Products shall pass at the time of payment of all such sums; and
- (b) the Customer resells the Products, in which case title to the Products shall pass to the Customer at the time specified in clause 7.4.

7.3 Until title to the Products has passed to the Customer, the Customer shall:

- (a) store the Products separately from all other products 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 on the Supplier's behalf from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.1(a) to clause 14.1(c); and
- (e) give the Supplier such information relating to the Products as the Supplier may require from time to time.

7.4 Subject to clause 7.5, the Customer may resell or use the Products in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Products. However, if the Customer resells the Products before that time:

- (a) it does so as principal and not as the Supplier's agent; and
- (b) title to the Products shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

7.5 If before title to the Products passes to the Customer the Customer becomes subject to any of the events listed in clause 14.1(a) to clause 14.1(c), then, without limiting any other right or remedy the Supplier may have:

- (a) the Customer's right to resell Products or use them in the ordinary course of its business ceases immediately; and
- (b) the Supplier may at any time:
  - (i) require the Customer to deliver up all Products in its possession that have not been resold, or irrevocably incorporated into another product; and
  - (ii) 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. Supply of Services

8.1 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.



8.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, or otherwise agreed between the Customer and the Supplier, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

8.3 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

8.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

## 9. Customer's obligations

9.1 The Customer shall:

- (a) ensure that the terms of the Order, the Products Specification and any information it provides in the Service Specification are complete and accurate;
- (b) co-operate with the Supplier in all matters relating to the Services;
- (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services (where relevant);
- (d) provide the Supplier with such information and tooling as the Supplier may reasonably require in order to supply the Products and the Services, and ensure that any such information is complete and accurate in all material respects;
- (e) prepare the Customer's premises for the supply of the Services (where relevant);
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) comply with all applicable laws, including health and safety laws;
- (h) comply with any additional obligations as set out in the Service Specification.

9.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend supply of the Products or performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 9.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

## 10. Charges and payment

10.1 The price for Products and the Services:

- (a) shall be the price set out in the Order; and
- (b) shall be exclusive of all costs and charges of packaging, insurance, transport of the Products, which shall be invoiced to the Customer.

10.2 The Supplier reserves the right to increase the price of the Products, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Products to the Supplier that is due to:

- (a) any factor beyond the control of the Supplier (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), quantities or types of Products ordered, or the Products Specification; or
- (c) any delay caused by any instructions of the Customer in respect of the Products or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Products.

10.3 In respect of Products, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on the dates or milestones agreed in writing with the Customer, or if none are agreed on completion of the Services .

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

- (a) within 30 days of the end of the month in which the invoice was issued; and
- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

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

10.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Products at the same time as payment is due for the supply of the Services or Products.

10.6 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 14 (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 10.6 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%.

10.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).



## 11. Intellectual property rights

All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any tooling provided or paid for by the Customer) shall be owned by the Supplier.

## 12. Confidentiality

12.1 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 12.2.

12.2 Each party may disclose the other party's confidential information:

- (a) 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 or in connection with this agreement. 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 12; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

## 13. Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

13.1 The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

13.2 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 section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
- (d) defective products under the Consumer Protection Act 1987.

13.3 Subject to clause 13.2, the Supplier's total liability to the Customer shall not exceed the value of the Contract.

13.4 Subject to clause 13.2, the following types of loss are wholly excluded by the Supplier, and the Supplier shall have no liability to the Customer in respect of them

- (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.

13.5 The Supplier has given commitments as to compliance of the Products and Services with relevant specifications in clause 6 and clause 8. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

13.6 This clause 13 shall survive termination of the Contract.

## 14. Termination

14.1 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:

- (a) 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), 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;
- (b) 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
- (c) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

14.2 Without affecting any other right or remedy available to it, 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.

14.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services and all further deliveries of Products under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.1(a) to clause 14.1(c), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

## 15. Consequences of termination

15.1 On termination of the Contract:

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- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and 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;
- (b) the Customer shall return all of the Supplier Materials and any Deliverables or Products which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) subject to payment in full of all amounts due from the Customer, the Supplier shall return all of the tooling supplied by the Customer to the Supplier, to the Customer.

15.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of 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.

15.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

## 16. Force majeure

The Supplier shall not be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 2months, the Supplier or Customer may terminate this agreement by giving 7 days' written notice to the other party.

## 17. General

### 17.1 Assignment and other dealings

- (a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, 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 the Supplier.

### 17.2 Notices.

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



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## Injection & Composite Moulders



(i) sent by email to the address specified in the Order for this purpose.

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

- (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (ii) 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 or at the time recorded by the delivery service; and
- (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 17.2(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

(a) This clause 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.

**17.3 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 or part provision of the Contract is deemed deleted under this clause 17.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

**17.4 Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**17.5 No partnership or agency.** Nothing in the Contract is intended to, or shall 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.

**17.6 Entire agreement.**

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

**17.7 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

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**17.8 Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

**17.9 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.

**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 the Contract or

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