

**TYNE GANGWAY (STRUCTURES) LIMITED
STANDARD TERMS AND CONDITIONS
FOR SALE OF GOODS AND/OR SERVICES 2021-05**

The Customer's attention is particularly drawn to the provisions of clause 10.

1. GENERAL

- 1.1 These Conditions shall be incorporated in the Contract howsoever constituted. The placing of an Order by the Customer with the Supplier whether by oral, telephone, written, facsimile or e-mailed communication, shall constitute acceptance of these Conditions which shall govern all work done or services rendered by the Supplier, and shall override and exclude any other terms stipulated or referred to by the Customer. No variation to these Conditions shall be binding unless agreed in writing between the Supplier and the Customer.

2. INTERPRETATION

- 2.1 **Definitions.** In these Conditions, the following definitions apply:
- 2.2 **Business Day:** a day (other than a Saturday, Sunday, or public holiday) when banks in London are open for business.
- 2.3 **Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause (c).
- 2.4 **Conditions:** these terms and conditions as amended from time to time in accordance with clause 17.7.
- 2.5 **Contract:** the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.
- 2.6 **Contract Period:** The period agreed between the Parties for the performance of the contract work.
- 2.7 **Customer:** The person, company, firm, or organisation with which the Supplier contracts.
- 2.8 **Delivery:** Delivery or handover of the goods and manufactured items to the Customer which shall be deemed to occur at the latest on departure or load out from the Supplier's premises.
- 2.9 **Deliverables:** any designs, goods, materials, or manufactured items as set out in the Order, produced by the Supplier for the Customer.
- 2.10 **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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.
- 2.11 **Order:** the Customer's order for Services as set out in the Customer's purchase order form or the Customer's written acceptance of a quotation by the Supplier as the case may be.
- 2.12 **Overall Limit:** In respect of the aggregate of all claims or liabilities under the Contract the lesser of (i) fifty (50%) of the Charges and (ii) the sum of one hundred thousand pounds sterling, (£100,000) or such other sum as may be agreed by the Parties as the Supplier's limit of liability for loss or damage howsoever arising under any provisions(s) of the Contract and specifically for the purposes of Conditions.

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- 2.13 **The Parties:** the Supplier and the Customer.
- 2.14 **Specification:** the specification or other document or communication from the Customer which states the work which the Customer wishes the Contractor to perform as accepted by the Contractor and includes any modifications or qualifications in the tender or other documents submitted by the Supplier.
- 2.15 **Services:** the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Specification.
- 2.16 **Supplier:** Tyne Gangways (Structures) Limited, registered in England and Wales with company number 07038655.
- 2.17 **Supplier Materials:** has the meaning set out in clause (f).

3. BASIS OF CONTRACT

- 3.1 Any samples, drawings, descriptive matter, or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 3.2 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 28 Business Days from its date of issue.

4. SUPPLY OF SERVICE

- 4.1 The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 4.2 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 4.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

5. CUSTOMER'S OBLIGATIONS

- 5.1 The Customer shall:
- (a) ensure that the terms of the Order and any information it provides in the 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;
 - (d) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
 - (e) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
 - (f) keep and maintain all materials, equipment, documents, and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.
 - (g) check all Deliverables and notify the Supplier of any missing items or items which have been damaged in transit within 10 days of Delivery.

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- 5.2 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) the Supplier shall without limiting its other rights or remedies have the right to suspend 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 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 5.2; 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.

6. PAYMENT AND PROVISION OF A PERFORMANCE BOND

- 6.1 Payment by the Customer for the Services shall be made without deduction. The Supplier shall be entitled, unless otherwise agreed, to claim interim payments based on interim invoices monthly in respect of work done and Services rendered to date, such interim invoices to be payable within 7 days of presentation or prior to the Deliverables leaving the Supplier's premises if earlier.
- 6.2 Unless otherwise agreed, all Charges shall be paid on Delivery and in any event all monies must be received by the Contractor prior to the Deliverables leaving the Supplier's premises failing which the Supplier shall be entitled to withhold Delivery.
- 6.3 No forbearance on the part of the Supplier in demanding interim payments under the Contract shall prejudice or affect the entitlement of the Supplier to require payment of the balance of the Charges upon Delivery.
- 6.4 Without prejudice to the Supplier's other remedies, in default of payment of invoices on the due date the Customer will pay interest on sums then due at the rate of Bank of England Base Rate plus 1.5% per month pro rata for each day of default and in default of payment of an interim invoice the Contractor shall have the right to suspend work on the Contract without thereby incurring liability to the Customer until payment in full together with accrued interest, and to recover from the Customer costs of watchman and (without limitation) any other costs arising from such suspension of work.
- 6.5 All sums due from the Customer shall be paid in full and without any deduction, counterclaim or set-off. Any claim by the Customer shall be pursued by separate action and shall not affect the Supplier's entitlement to payment.
- 6.6 The Supplier shall have the right to change any agreed payment terms and/or to require the provision of security for payment in form and substance satisfactory to the Supplier if the Customer has failed to make payment in accordance with any agreed payment terms or if there occurs or appears likely to occur, in the sole opinion of the Supplier any material change in the condition of the Customer.
- 6.7 The Customer shall provide a performance bond in form and substance satisfactory to the Contractor for 20% of the anticipated Charges within 5 days of the date of the Contract.
- 6.8 The Charges for the Services shall be on the basis set out in the Specification. Where Charges are on a time and materials basis:
- (a) the Charges shall be calculated in accordance with the Supplier's standard daily fee rates, as set out in the Specification;
 - (b) the Supplier's standard daily fee rates for each individual are calculated based on an eight-hour day from [8.00 am to 5.00 pm] worked on Business Days;
 - (c) the Supplier shall be entitled to charge an overtime rate of 115% (one hundred and fifteen percent) of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause (b); and

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- (d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence, and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- (e) Any quotation produced by the Supplier shall not include VAT, which will be charged at the appropriate rate.
- (f) Unless stated otherwise in the quotation, the price shall not include the cost of delivery, carriage, or off-loading, which should be arranged by the Customer.

6.9 Until payment has been received in full for all Deliverables and/or Services rendered under the contract, legal title to Deliverables shall be retained by the Supplier notwithstanding that the risk in such Deliverables and the responsibility for purchase of insurance in respect of the same, shall pass to the Customer on delivery or installation as the case may be. The Supplier reserves the right to enter the Customer's premises at any time to:

- (a) Remove Deliverables or Supplier Equipment belonging to the Supplier;
- (b) Remove any locks, bolts, or other obstructions in order to gain access to Deliverables or Supplier Equipment;

6.10 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**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 at the same time as payment is due for the supply of the Services.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
- 7.2 The Customer acknowledges that, in respect of any third-party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 7.3 All Supplier Materials are the exclusive property of the Supplier.

8. CONFIDENTIALITY

8.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes, or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents, and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 8 shall survive termination of the Contract.

9. DELAY

9.1 The Contractor shall have no liability whatsoever for delay howsoever caused or occurring.

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- 9.2 Should the Customer wish to vary 9.1 so that the Supplier assumes any liability for delay, the Customer must advise the Supplier prior to conclusion of the Contract to obtain and provide to the Customer a quotation from the Supplier's insurers for this additional cost.
- 9.3 If the Services are extended by variation orders or if any delay to the Services shall occur due to Force Majeure, or the Services are delayed by any other cause whatsoever (whether or not of the same nature as the foregoing) beyond the Supplier's control the Contract Period shall be extended by the period of periods of such extension suspension or delay.
- 10. WARRANTY AND LIMITATION OF LIABILITY (THE CUSTOMER'S ATTENTION IS SPECIFICALLY DRAWN TO THIS CLAUSE.)**
- 10.1 Where written notification of defective Services is given to the Supplier within 12 months of delivery provided always that;
- (a) no alterations or additions have been made to the Deliverables without the consent of the Supplier,
 - (b) the Customer has observed the Supplier's instructions in relation to the use and maintenance of the Deliverables,
 - (c) any defect in the Deliverables has not resulted from negligence or mismanagement by the Customer, or errors or omissions in information supplied to the Supplier by or on behalf of the Customer prior to or during the Contract.
 - (d) that the Deliverables have not been incorporated into any offshore structure
 - (e) that the Customer has complied with its obligation under clause 5.1(g)
- the Supplier will either;
- (i) carry out the repair or replacement at the Supplier's premises, or if the Customer deems it impractical to bring the Services to the Supplier's premises, the Supplier will, where in its opinion it is practical to do so, remedy the defects at the Customer's site, in this case the Customer will provide free of charge to the Supplier; (i) transport to the site, accommodation and sustenance for a reasonable number of the Supplier's staff, and sub-contractors and will pay transport costs, freight, duty and customs for parts or machinery or equipment from the Supplier's premises or sub-contractor's premises which are required to implement the guarantee work, (ii) suitable facilities, including working areas and accommodation on site to enable any guarantee work to be carried out, (iii) suitable insurance to cover the Supplier's staff, and those of its sub-contractors (including without limitation for personal injury and negligence) and as such the Supplier shall have no liability whatsoever to the Customer arising out of, in connection with, or as a consequence of the guarantee work or the presence/activities/failure to act of any of the Supplier's staff or subcontractors.
 - (ii) pay to the Customer the reasonable cost of repair or replacement at another more conveniently located yard ("Other Yard"), provided always that the Customer will use all reasonable endeavours to allow the Supplier to arrange an inspection of the damage prior to repair and that the Other Yard's repair charges do not exceed the cost to the Supplier of carrying out the work at the Supplier's premises.
- 10.2 Except as provided in 10.1, the Supplier shall not be under any liability whatsoever to the Customer in either contract, tort, or bailment (including without limitation for negligence) and from after Delivery all liability of the Supplier whatsoever in respect of the Services shall cease. Except as set out at clause 10.1 the Customer will indemnify the Supplier in respect of any claims whatsoever made against the Supplier after Delivery.
- 10.3 The Supplier's obligations in clauses 10.1 and 10.2 are in substitution for any condition, term, duty, or warranty implied by common law or statute (including without limitation the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982 and the Sale and Supply of Goods Act 1994) and any such condition, term, duty, or warranty is hereby expressly excluded.
- 10.4 In no circumstances whatsoever shall;
- (a) The Supplier be liable for loss of use, loss of revenue, loss of production or product, loss of profits, loss of or interruption to business, facilities downtime, loss of use of property, additional expenditure or wasted overheads or any direct or indirect economic or pecuniary loss, howsoever the same may arise whether under contract, tort, including negligence, strict liability or otherwise of the Supplier, its agents, or its subcontractors.

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- (b) The liability of the Supplier (including, without limitation, for negligence) exceed the Overall Limit.
- (c) The Supplier have any liability or responsibility for design or for interface risk.

10.5 Save as set out at clause 10.1, each party accepts responsibility and liability for the death or personal injury of its own personnel, and the personnel of those entities for whom they are responsible under this Contract, irrespective of the cause of death or personal injury, and whether or not caused by the negligence or gross negligence of the other party, or those entities for whom the other party are responsible under this Contract. Each party further agrees to indemnify and hold harmless the other party, as regards both liability and legal costs, in the event that the aforesaid personal or their dependents pursue claims for death or personal injury against the party who is not responsible for them under this Contract.

11. TERMINATION

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

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration, or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause (b) to clause (i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- (l) the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

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11.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 14 days after being notified in writing to do so.

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

12. CONSEQUENCES OF TERMINATION

12.1 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all the Supplier's outstanding unpaid invoices and interest and, in respect of Services 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 the Supplier Materials and any Deliverables 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) the accrued rights, remedies, obligations, and liabilities of the parties as at expiry or termination shall be unaffected, 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; and
- (d) clauses which expressly or by implication survive termination shall continue in full force and effect.

13. FORCE MAJEURE

13.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), epidemics or major illness, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

13.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

13.3 If the Force Majeure Event prevents the Supplier from providing any of the Services for more than three months, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer. The Customer shall pay for all goods, materials and work completed before termination on the last day of the month following the month in which the Contract was terminated.

14. TESTS

14.1 The Supplier will comply with any reasonable request for tests to be carried out in respect of Deliverables and Services under this Contract, subject to the following:

- (a) Such requests must be made by the Customer in writing at least seven working days before the test is required to be performed.
- (b) The costs of such tests must be borne by the Customer.
- (c) The Customer will accept any Deliverables or Services rendered on satisfactory completion of such tests.

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15. SITE WORK

- 15.1 Where the Supplier is required to work on the premises of the Customer or of any third party, the Customer will ensure that:
- (a) All services and facilities necessary for the Supplier to carry out the work, including an adequate and safe storage area, are provided at no additional cost to the Supplier;
 - (b) The Supplier and its agents have access to the areas where work is to be carried out whenever necessary.
- 15.2 The provision of any services by the Supplier, including, without limitation, construction, installation, and fabrication work, shall be carried out at the Customer's risk. The Customer shall be responsible for obtaining all relevant permissions and other necessary consents for any site work.
- 15.3 The Supplier will not be responsible for (and the Customer may not rely upon) any statement or representation made by its servants or agents in connection with the provision of work on site unless such statements or representations are confirmed in writing and signed by a director of the Supplier.
- 15.4 The Customer shall indemnify the Supplier in full for any direct or consequential costs, expenses, damages, or losses incurred as a result of:
- (a) The Customer's failure to comply with Clause 15 above, either at all or in sufficient time to allow the Supplier to fulfil its obligations under the Contract.
 - (b) Claims arising from damage to property or injury to persons unless it is proved that it has solely been caused by the Supplier, its servants, or its agents.
- 15.5 Where the Supplier's equipment is used on-site the Customer shall be responsible for any loss or damage (unless solely caused by the Supplier or its agents) and for purchasing insurance cover for that equipment.
- 15.6 Where it is necessary to carry out any work involving gas or electric welding, cutting equipment, blow lamps or any other matter which may lead to a risk of fire, the Supplier will notify the Customer of this in writing at least three days prior to the commencement of the work. On receipt of such notice the Customer will:
- (a) Issue a Hot Work Permit, specifying the hazards which exist and any precautions to be taken, to the Supplier and/or its agents;
 - (b) Provide on a loan basis, without additional cost to the Supplier, any fire extinguishers, fire watch, fire blankets or other fire-fighting equipment which is required to comply with the Hot Work Permit.

16. ERRORS

- 16.1 The Supplier reserves the right to correct any clerical or typographical errors made by its servants or agents.

17. GENERAL

- 17.1 **Assignment** and other dealings.
- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract, or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
 - (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all its rights or obligations under the Contract.
- 17.2 Notices.
- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and

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shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.

- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause (a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, on the day of transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

17.3 Severance.

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal, and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- (b) If any provision or part-provision of this Contract is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid, and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

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

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, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

17.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

17.7 **Variation.** Except as set out in these Conditions, no variation of the Contract or of these Conditions shall be effective unless it is agreed in writing and signed by a director of the Supplier. No servant or agent of the Supplier has any authority to vary these Conditions except where such authority is granted by the Supplier in writing and signed by a director of the Supplier.

17.8 **Governing law.** This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

17.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).