**Nicol & Andrew (MSPE) Limited Standard Conditions of Business**

**1. DEFINITIONS AND INTERPRETATIONS**

1.1 In these Conditions (unless the context otherwise requires), the following words and phrases shall have the following meanings:

**"Company"** means Nicol & Andrew (MSPE) Limited a company registered in Scotland under number SC 261322 whose registered office is at 170 Brand Street, Glasgow, G51 1DH

**"Company's Group"** means each and any subsidiary undertaking or parent undertaking (each having the meaning given to them in section 1162 of the Companies Act 2006) of the Company and each and any subsidiary undertaking of a parent undertaking of the Company.

**"Conditions"** means these terms and conditions of business.

**"Contract"** means a contract for the provision of Services made by or on behalf of the Company with a Customer.

**"Customer"** means a person to whom the Company supplies or is to supply Services pursuant to a Contract.

**"Customer's Goods"** means goods of the Customer which are treated by the Company when effecting the Services.

**"Ex-works"** means "ex-works" as defined by Incoterms 2010, published by the International Chamber of Commerce.

**"Order"** means an order in writing for the Services received by the Company from the Customer.

**"Order Acknowledgement"** means the Company's written acceptance of the Order set out in the Company's standard order acknowledgement form generated via email;

**"Services"** means the services relating to the treatment of the Customer's Goods or any other services which the Company provides pursuant to a Contract.

**"Working Day"** means a day that is not a Saturday, Sunday or public or bank holiday in Scotland

1.2 In these Conditions (unless the context otherwise requires):

1.2.1 references to Conditions are to conditions of these Conditions;

1.2.2 construction of these Conditions shall ignore the headings (all of which are for reference only); and

1.2.3 any reference to any legislative provision shall be deemed to include any subsequent re-enactment or amending provision.

**2. APPLICATION**

2.1 All Orders placed with the Company by the Customer are subject to the Conditions. No modification or variation to these Conditions and no other terms and conditions (including any terms and conditions which the Customer purports to apply under any purchase order, confirmation of order or similar document) shall be valid or effective and in particular (but

without prejudice to the generality of the foregoing) no modification or variation to these Conditions shall apply merely by the acknowledgement or acceptance by the Company of any Order containing terms and conditions at variance with or in addition to these Conditions unless such modification or variation and other terms and conditions are expressly accepted in writing by a director, or duly authorised representative of the Company.

2.2 The Customer's acceptance of delivery of the Customer's Goods or performance of the Services shall (without prejudice to Condition 3 or any other manner in which acceptance of these Conditions may be evidenced) constitute unqualified acceptance of these Conditions.

2.3 The Order constitutes an offer by the Customer to purchase the Services from the Company on these Conditions. A Contract for the supply of Services by the Company to the Customer on these Conditions will be formed when the Company issues to the Customer an Order Acknowledgement in accordance with Condition 3.2.

**3. QUOTATIONS AND ACCEPTANCE**

3.1 A quotation, price list or any other publication provided by the Company does not constitute an offer and the Company reserves the right to withdraw or revise a quotation at any time prior to accepting an Order.

3.2 No Order submitted by the Customer shall be deemed to be accepted by the Company unless and until the Company issues an Order Acknowledgement to the Customer.

3.3 Orders are accepted subject to the Company being able to obtain at all times the necessary raw materials and any special tools required to execute the Order. 2

3.4 Any subsequent Orders placed with the Company shall be deemed to be placed subject to these Conditions unless expressly agreed otherwise in writing by a director or duly authorised representative of the Company.

3.5 In accepting any Order submitted by the Customer, the Company does so both for itself and for and on behalf of every employee, servant or agent of the Company and the Customer hereby confirms that any exemption of liability granted to the Company by these Conditions shall also extend to every employee, servant or agent of the Company.

3.6 The Company's employees, servants or agents are not authorised to make any representations concerning the Services unless confirmed by an authorised representative of the Company in writing. The Customer acknowledges that it does not rely on and waives any claim or a breach of any claim or a breach of any such representations which are not so confirmed.

3.7 Any advice or recommendation given by the Company or its employees, servants and agents to the Customer or its employees, servants and agents as to the application or use of the Customer's Goods or Services which is not confirmed in writing by an authorised representative or the Company is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

3.8 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, Order Acknowledgement, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

3.9 No Order which has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of an authorised representative of the Company and in such case the Customer shall indemnify the Company in full against all loss (including direct and indirect loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of the cancellation.

**4. PRICE**

4.1 The price for the Services to be paid by the Customer to the Company is based on the prices set out in the Company's quotation. Prices are subject to variation by the Company prior to performance of the Services and the Customer shall pay any such varied price.

4.2 Unless otherwise agreed in writing between the Company and the Customer all prices are given by the Company on an Ex-works basis and where the Company agrees to deliver the Customer's Goods otherwise than at the Company's premises the Customer shall be liable to pay the Company's costs and expenses for transport, packaging and insurance.

4.3 The price for the Services is exclusive of any applicable value added tax or other sales tax or duty applicable from time to time to supplies of the Services which the Customer shall be additionally liable to pay to the Company.

**5. PAYMENT**

5.1 The Customer shall make all payments due to the Company under the Contract in pounds sterling within 30 (thirty) days of the of the end of the month following the month of issue of relevant invoices.

5.2 The time of payment of the price shall be of the essence of a Contract and the Company reserves the right to suspend performance of the Services to the Customer where any amounts are overdue under any Contract until all such amounts have been paid. Receipts for payment will be issued only upon request.

5.3 If the Customer fails to make payment of the price on the due date to the Company or to any other member of the Company's Group the Company shall be entitled to:

5.3.1 cancel the balance (if any) of the Contract under which the Customer has failed to pay and to recover from the Customer any loss, costs or expenses incurred by the Company as a result of such cancellation; and/or

5.3.2 cancel any other contract or the balance of any other contract which the Customer may have with the Company and to recover from the Customer any loss, costs or expenses incurred by the Company as a result of such cancellation; and/or

5.3.3 charge the Customer interest at the rate of 4% (four per cent) per annum over the Bank of Scotland plc's base lending rate for the time being on the amount due to the Company from the due date to the date of actual payment thereof (both before and after any judgment) such interest to be paid on demand therefore by the Customer.

5.4 If, in the Company's view, the Customer's credit-worthiness deteriorates before delivery of the Customer's Goods or performance of the Services, the Company may require payment in

full or in part of the price prior to delivery or performance, or the provision of security for payment 3

by the Customer in such form as is acceptable to the Company.

5.5 The Company reserves the right to alter or withdraw at any time any credit allowed to the Customer.

5.6 The Company may offset any amount owing to it or a member of the Company's Group from the Customer against any amount owed to the Customer by the Company.

5.7 Notwithstanding any appropriation by the Customer to the contrary, all payments made by the Customer to the Company shall be appropriated first to Customer's Goods which have been resold by the Customer and then to Customer's Goods which remain in the Customer's possession or control.

5.8 The Company will have a general lien over the Customer's Goods for payment by the Customer of all amounts owed by the Customer to the Company or any other member of the Company's Group under this Contract or other contract. If the Customer fails to make any payment due to the Company under any Contract within 7 (seven) days after the due date the Company will be entitled, as agent for the Customer, to sell any or all of the Customer's Goods on such terms and at such price as the Company at its sole discretion sees fit. The Company will apply the proceeds of any sale first to reimbursing the costs incurred by it in making that sale and secondly to paying all sums due to it under any Contract by the Customer and will then account to the Customer for the balance (if any).

**6. DELIVERY AND PERFORMANCE**

6.1 Delivery of the Customer's Goods shall be made by the Customer collecting the Customer's Goods at the Company's premises (or other delivery point agreed by the Company in writing) within 14 (fourteen) days after the Company has notified the Customer that the Customer's Goods are ready for collection.

6.2 If delivery takes place other than at the Company's premises, the Customer shall unload the Customer's Goods immediately on their arrival.

6.3 The Company will make an additional charge for delivery other than at its premises.

6.4 The Customer is solely responsible for unloading the Customer's Goods at the point of delivery and the Customer shall indemnify the Company against each loss, liability and cost arising as a result of the Company or its sub-contractors assisting the Customer in the unloading, loading or other removal of the Customer's Goods at or from the point of delivery.

6.5 Any dates mentioned in any quotation, Order Acknowledgement or elsewhere for delivery of the Customer's Goods or performance of the Services are approximate only and the Company shall not be liable for any delay in delivery of the Customer's Goods or performance of the Services howsoever caused. Time for delivery shall not be of the essence and shall not be made so by the service of any notice. The Customer's Goods may be delivered or Services provided by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer.

6.6 If the Customer refuses or fails to take delivery of the Customer's Goods delivered in accordance with a Contract or fails to give the Company adequate delivery instructions for delivery of the Customer's Goods then without prejudice to any other right or remedy available to the Company, the Company may:

6.6.1 store such Customer's Goods until actual delivery and recover from the Customer any additional costs (including, without limitation, insurance costs) from the due date of delivery; or

6.6.2 terminate the Contract with immediate effect; or

6.6.3 sell such Customer's Goods as the Company may determine and recover from the Customer any loss or additional costs incurred as a result of such refusal or failure.

6.7 Where the Customer has made an Order for the performance of the Services or delivery of Customer's Goods and subsequently requests the Company to defer delivery, any Customer's Goods completed will be invoiced and any Services which are part performed will be completed and invoiced. The Company may recover from the Customer any holding and storage charges incurred by the Company from the due date of delivery which will be invoiced at the Company's discretion.

6.8 Section 32 (2) of the Sale of Goods Act 1979 does not apply and the Company is not required to give the Customer the notice specified in section 32 (3) of that Act.

6.9 In the event that the Services are carried out at the Customer's premises or the premises of a third party, the Customer must ensure adequate support is available to ensure efficient completion of the Services. This support is to include the prompt provision of electric power, water, compressed air, machine tools, material handling equipment and access equipment together with sufficient qualified labour. The Company reserves the right to make additional 4

charges for any delay caused by the Customer not complying with this Condition 6.9. It is the Customer's responsibility to ensure insurance cover for the Company equipment whilst that equipment is on the Customer's or third party's premises.

**7. RISK AND TITLE**

7.1 Risk in the Customer's Goods shall pass to the Company when delivered to the Company's premises.

7.2 Risk in the Customer's Goods shall pass back to the Customer:

7.2.1 where the Customer's Goods are to be delivered to the Customer at the Company's premises, at the time of delivery of such Customer's Goods; or

7.2.2 where the Customer's Goods are to be delivered to the Customer's premises or other place of storage, at the time when such Customer's Goods are loaded onto the carrier's transport vehicle at the Company's premises or other place of storage;

7.2.3 where delivery is made or effected in part then the provisions of this Condition 7 shall apply separately to each such part.

7.3 In the event that the Services are not carried out at the Company's premises, risk in the Customer's Goods shall remain always with the Customer.

**8. TOOLS**

8.1 Any tools, dies, moulds, jigs and fittings ("Tools") remain the property of the Company and will in no case leave the Company's premises. The Company shall retain Tools for a reasonable time in anticipation of future orders from the Customer, but for the avoidance of doubt the Company shall not be liable to the Customer in respect of retaining the Tools.

8.2 The Company reserves the right to charge the Customer any cost which would otherwise be borne by the Company in respect of Tools manufactured to order to meet the specifications of the Customer set out in the Order and the Customer shall also be liable for the cost of Tools manufactured to meet an Order of the Customer where the Order or part of it is cancelled by the Customer or for any reason beyond the control of the Company.

**9. SPECIFICATIONS**

Where specifications (including delivery dates) are to be supplied in accordance with the Contract to the Company in respect of the Customer's Goods or Services the Customer shall supply such specifications with the Order. The Company shall not be in breach of the Contract to the extent its failure to perform or delay or defect in performance of its obligations under the Contract arises as a result of the Customer's failure and/or delay in providing such specifications to the Company.

**10. WARRANTY AND LIABILITY**

10.1 The Company warrants that it will: (a) in the event of defective performance of the Services, re-perform the Services in accordance with the relevant Order; and (b) if any Customer's Goods are damaged directly as a result of the Services, (at the Company's choice) either repair or replace or refund the purchase price of such Customer's Goods. This Condition 10.1 represents the Company's only liability in contract, tort (including negligence or breach of statutory duty) or otherwise for defective performance of the Services and damage to the Customer's Goods as a result of the performance of the Services.

10.2 The warranties in Condition 10.1 are given on the following conditions:

10.2.1 the Company is not liable for a defect in the Customer's Goods or Services caused by fair wear and tear, abnormal or unsuitable conditions of storage requested or controlled by the Customer or by use or an act, neglect or default of the Customer or a third party;

10.2.2 the Customer will (or will procure that the Customer's employees, agents, consultants and/or subcontractors will) inspect the Customer's Goods on delivery and will within 1 (one) month of the date of delivery or performance give written notice to the Company of any defect in the Customer's Goods; and

10.2.3 the Company is not liable for a defect in the Customer's Goods or Services unless it is notified to the Company within 1 (one) month of the date of delivery or performance.

10.3 The Company is not liable for any defect in the performance of the Services which is due directly or indirectly to the Customer's Goods not meeting the requirements specified by the Company.

10.4 Except as set out in this Condition 10, all conditions, warranties and representations, expressed or implied by statute, common law or otherwise, in relation to the supply, use of or

failure to supply the Customer's Goods, or the performance or non-performance of the Services are excluded to the fullest extent permitted by law.

10.5 Without prejudice to Conditions 10.2, 10.3, 10.6, 10.9 and 10.10, and subject to Condition 10.7, the Company is not liable to Customer in contract, tort (including negligence or breach 5

of statutory duty) or otherwise for any of the following losses or damages, whether direct or indirect, arising out of, or in connection with, the supply, non supply or delay in performing the Services or delivering the Customer's Goods or otherwise in connection with a Contract:

10.5.1 loss of profit (whether direct, indirect or consequential);

10.5.2 loss of revenue, loss of production or loss of business (in each case whether direct, indirect or consequential);

10.5.3 loss of goodwill, loss of reputation or loss of opportunity (in each case whether direct, indirect or consequential);

10.5.4 loss of anticipated savings or loss of margin (in each case whether direct, indirect or consequential);

10.5.5 liability of the Customer to third parties (whether direct, indirect or consequential); or

10.5.6 indirect, consequential or special loss.

10.6 The entire liability of the Company under or in connection with the use of, supply of or failure to supply the Customer's Goods, or the performance or non-performance of the Services, whether for negligence, breach of contract, misrepresentation or otherwise, is limited, in respect of each event or series of connected events, to 2 (two) times the Company's price for carrying out the Services under the relevant Contract.

10.7 Nothing in these Conditions shall operate to exclude or restrict the Company's liability for:

10.7.1 death or personal injury resulting from negligence;

10.7.2 breach of the obligations arising from section 12 of the Sale of Goods Act 1979; or

10.7.3 fraud or deceit.

10.8 Condition 10.9 provides the Company's entire liability in the event that any of the Customer's Goods which are in the possession of the Company at any time are lost, damaged or scrapped due to the negligence and/or wilful default of the Company whether in the course of the performance of the Services or otherwise. The Customer will notify the Company in writing if the replacement value of any of the Customer's Goods in the possession of the Company in their untreated state is £20,000 (twenty thousand pounds sterling) or more and confirm if the Customer wishes to discuss an increase to the limitation set out in Condition 10.9.1, such notice to be provided prior to formation of the Contract in accordance with Condition 2.3. In the event that the Customer does not provide such notice to the Company before formation of the Contract and does not request an increase to the limitation set out in Condition 10.9.1 then the Company's entire liability in the event that any of the Customer's Goods which are in the possession of the Company at any time are lost, damaged or scrapped due to the negligence and/or wilful default of the Company will be as set out in Condition 10.9.1.

10.9 In the event that any of the Customer's Goods which are in the possession of the Company at any time are lost, damaged or scrapped due to the negligence and/or wilful default of the Company whether in the course of the performance of the Services or otherwise:

10.9.1 if any of the Customer's Goods which are in the possession of the Company at any time have a replacement value of £20,000 (twenty thousand pounds sterling) or more, the Company's maximum aggregate liability to the Customer shall be limited to £20,000 (twenty thousand pounds sterling); and

10.9.2 if any of the Customer's Goods which are in the possession of the Company at any time have a replacement value of less than £20,000 (twenty thousand pounds sterling), the Company's maximum aggregate liability to the Customer shall be limited to the direct costs of replacement of those parts of the Customer's Goods so lost, damaged or scrapped.

10.10 Any performance particulars given by the Company are based on its experience and are such as it would expect to be obtained. No liability can be accepted if that result is not obtained. No warranty is given as to the life of the Services supplied.

**11. CLAIMS FOR DAMAGE, SHORTAGE OR LOSS**

11.1 The Company will at its option repair or replace all or part of the Customer's Goods lost or damaged in transit (where the Customer's Goods are carried by the Company's own transport or by a carrier on behalf of the Company) provided that:

11.1.1 details of any loss or damage have been marked on the copy consignment note or delivery document signed by the Customer and advised separately in writing to the Company and to the carrier concerned within 3 (three) Working Days of delivery, and within 5 (five) Working Days of delivery the Customer gives full particulars in writing to the Company and the carrier concerned; and

11.1.2 in respect of the total loss of such Customer's Goods details are advised separately in writing to Company and to the carrier concerned within 7 (seven) Working Days of the transit 6

commencing (otherwise than on a consignment note or delivery document), and within 14 (fourteen) Working Days of the date of transit commencing the Customer gives full particulars in writing to the Company and the carrier concerned.

11.2 Condition 11.1 will not apply where the Customer's Goods are collected by or on behalf of the Customer from the Company's premises or other point of delivery.

11.3 The Company shall not be liable for any short delivery unless details of the delivery are marked on the copy of the consignment note or delivery document signed by the Customer (and in the case of loss in transit all the requirements set out in Condition 6 are fulfilled).

**12. OVERSEAS CUSTOMERS**

12.1 In the case of Services supplied by the Company to Customers outside the United Kingdom the following Conditions apply in lieu of and in addition to the relevant Conditions:

12.1.1 Dates for delivery and terms of payment shall be as arranged between the Company and the Customer and in default of an agreement to the contrary the price quoted assumes that delivery of the Customer's Goods to the Company's premises shall be the responsibility of the

Customer. Payment to the Company for Services is to be made by the Customer on delivery of the Customer's Goods at the Company's premises.

12.1.2 The Customer at its own expense shall provide any import licence required for the import of the Customer's Goods into the country to which the Customer's Goods are to be despatched from the United Kingdom and also any export licence required for the export of the goods from the United Kingdom.

12.1.3 The Customer shall be responsible for ensuring that the Customer's Goods do not infringe any law or regulation or Government order in the country to which they are despatched and further the Customer shall be responsible for meeting all import or other taxes, levies, duties or surcharges of whatsoever nature imposed or operative in the country to which the Customer's Goods are despatched.

**13. TERMINATION OF CONTRACTS**

13.1 On or at any time after the occurrence of any of the following events in this Condition 13 the Company shall have the right forthwith to:

13.1.1 terminate any Contract by giving notice to that effect to the Customer without prejudice to any claim or right the Company might otherwise make or exercise;

13.1.2 stop any Customer's Goods in transit;

13.1.3 suspend further deliveries to the Customer or performance of the Services;

13.2 The events referred to in Condition 13.1 are:

13.2.1 the Customer being in breach of any obligation under a Contract with the Company or to any other member of the Company's Group or these Conditions;

13.2.2 any distress, execution or other process being levied or enforced on any of the Customer's property or assets; or

13.2.3 a proposal being made for a composition in satisfaction of the Customer's debts or a scheme or arrangement of its affairs including a voluntary arrangement within the meaning of Part I of the Insolvency Act 1986; or

13.2.4 any application being made to a court of competent jurisdiction for protection from the Customer's creditors generally; or

13.2.5 (if the Customer shall be a limited company) a meeting being convened, any resolution passed or petition presented or order made or notice given for the Customer's winding up or dissolution (save for the sole purpose of a solvent amalgamation or reconstruction); or

13.2.6 (if the Customer shall be a limited company) an incumbrancer taking possession, or manager or receiver or liquidator being appointed of the whole or any part of the Customer's assets, property, undertaking or income;

13.2.7 an application being made, or resolved to be made by any meeting of the Customer's directors or members, for an administration order in relation to it or any party gives or files notice of intention to appoint an administrator in respect of it or such an administrator being appointed; or

13.2.8 the Customer ceasing or suspending payment of any of its debts or being unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986; or

13.2.9 the Customer is the subject of anything analogous to the foregoing under the laws of any applicable jurisdiction.

13.3 On termination of a Contract pursuant to Condition 13.1.1 or 14.2, any indebtedness of the Customer to the Company shall become immediately due and payable and the Company is relieved of any further obligation to supply Customer's Goods or perform Services to the Customer pursuant to that Contract. 7

**14. FORCE MAJEURE**

14.1 In this Condition 14, "Force Majeure Event" means any circumstance beyond the control of the Company including, without limitation, acts of God, fire, explosion, adverse weather conditions, flood, earthquake, terrorism, riot, civil commotion, war, hostilities, strikes, work stoppages, slowdowns or other industrial disputes, accidents, riots or civil disturbances, acts of government, lack of electrical power, any materials shortages, any failure or default of a supplier or sub-contractor of the Company, or any event beyond the reasonable control of the Company but, for the avoidance of doubt, nothing shall excuse the Customer from any payment obligations under these Conditions.

14.2 If the Company is prevented, hindered or delayed from or in supplying the Customer's Goods or performing the Services under these Conditions by a Force Majeure Event the Company may, at its sole option, and without being liable for any loss or damage suffered by the Customer as a result:

14.2.1 suspend deliveries or performance while the Force Majeure Event continues;

14.2.2 apportion available stocks of Customer's Goods between its customers if the Company has insufficient stocks to meet orders;

14.2.3 terminate any Contract forthwith by giving notice to that effect to the Customer.

14.2.4 In the event of an outbreak of hostilities (whether war is declared or not in which the United Kingdom is involved) or in the event of national emergency or if the Company should become either directly or indirectly so engaged on Government orders or orders under priority directions as to prevent or delay work on other orders the Company shall be entitled at any time on notice to the Customer to make partial deliveries only or to determine the Contract with the Customer without prejudice in any case to rights accrued in respect of deliveries already made.

**15. INDEMNITY**

The Customer shall indemnify and keep the Company indemnified against all loss, liability, claims, damages, penalties, costs and expenses which the Company incurs in carrying out any work required to be done on or to the Customer's Goods or in relation to the Services in accordance with the Customer's requirements or specifications which give rise to the infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights.

**16. NOTICES**

16.1 Any notice required or permitted to be given by either party to the other under these Conditions must be in writing and may be:

16.1.1 delivered personally to the relevant party's address.

16.1.2 sent to the relevant party's address by pre-paid first-class post or mail delivery service providing proof of delivery; or

16.1.3 sent by e-mail to the relevant party's email address,

and in the case of any notice to be given to the Company, marked for the attention of the specified representative of the Company. The address, email address and representative for the Company are set out below and the address and email address for the Customer are those detailed in the Order and may be changed by the relevant party giving at least 5 (five) Working Days' notice in accordance with this Condition 16.

**Nicol & Andrew (MSPE) Ltd**

**170 Brand Street**

**Glasgow, G51 1DH**

**mspe@namspe.co.uk**

**For the attention of: General Manager / Technical Sales Manager**

16.2 Any notice given in accordance with Condition 16.1 will be deemed to have been served:

16.2.1 if given as set out in Condition 16.1.1, at the time the notice is delivered to or left at that party's address.

16.2.2 if given by first class post or mail delivery service as set out in Condition 16.1.2, at 9.00 a.m. on the second Working Day after the date of posting; and

16.2.3 if given as set out in Condition 16.1.3, at the time of sending the e-mail (except that if an automatic electronic notification is received by the sender informing the sender that the e-mail has not been delivered to the recipient or the recipient is out of the office, that e-mail will be deemed not to have been served),

provided that if a notice or communication is deemed to be served before 9.00am on a Working Day it will be deemed to be served at 9.00am on that Working Day and if it is 8

deemed to be served on a day which is not a Working Day or after 5.00pm on a Working Day it will be deemed to be served at 9.00am on the immediately following Working Day.

16.3 To prove service of a notice it will be sufficient to prove that the provisions of Condition 16.1 were complied with.

16.4 This Condition 16 will not apply to the service of any proceedings or other documents in a legal action to which the Civil Procedure Rules apply.

**17. GENERAL**

17.1 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and:

17.1.1 neither party has entered the Contract in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person) which is not expressly set out in the Contract.

17.1.2 the only remedies available for any misrepresentation or breach of any representation or statement which was made prior to entry into the Contract, and which is expressly set out in the Contract will be for breach of contract; and

17.1.3 nothing in this Condition 17.1 will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.

17.2 A delay in exercising or failure to exercise a right or remedy under or in connection with the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.

17.3 If any term of the Contract (including any exclusion from, or limitation of, liability set out in Condition 10) is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Contract and this will not affect the remainder of the Contract which will continue in full force and effect.

17.4 No variation to the Contract will be effective unless it is in writing and signed by a duly authorised representative on behalf of each of the parties.

17.5 Nothing in the Contract and no action taken by the parties in connection with it or them will create a partnership or joint venture between the parties or give either party authority to act as the agent of or in the name of or on behalf of the other party or to bind the other party or to hold itself out as being entitled to do so.

17.6 Each party agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.

17.7 The parties do not intend that any term of the Contract will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.

17.8 The Company's rights and remedies set out in these Conditions are in addition to and not exclusive of any rights and remedies provided by law.

17.9 The Customer will not be entitled to assign, transfer, charge, hold on trust for any person or deal in any other manner with any of its rights under the Contract. The Customer will not be entitled to sub-contract any of its obligations under the Contract.

**18. GOVERNING LAW AND JURISDICTION**

The Contract (and any non-contractual obligations arising out of or in connection with it) shall be governed by the law of England and Wales. Each party agrees that the courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with the Contract (including in relation to non-contractual obligations).