

# Mandos Jewellery of London

## Terms and Conditions

May 2016

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

### 1. INTERPRETATION

1.1 The following Definitions apply:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 23.

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

**Customer:** the person, company or firm who purchases the Goods and/or Services from the Supplier.

**Customer Products:** all pieces of jewellery, objects and accessories, designs, moulds, waxes including sample pieces and consignment pieces supplied to the Supplier by the Customer;

**Customer Materials:** any material provided by the Customer to the Supplier including all precious and non-precious metals, gold and platinum, precious and semi-precious stones, gems and pearls, moulds and waxes or other items.

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

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

**Goods Specification:** any specification for the Goods, including the design, any relevant plans, drawings or illustrations that are agreed in writing or verbally by the Customer and the Supplier.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, logos, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, models, patterns, moulds and samples, CAD design files, CAD design renderings and CAD cam waxes and models, 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

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

**Services:** the services supplied by the Supplier to the Customer including casting in precious and non-precious metals, design, CAD design, rapid prototyping, manufacturing and manufacturing services, polishing, assembly and finishing services.

**Supplier:** MANDOS JEWELLERY OF LONDON LTD registered in England and Wales with company number 06401347.

## 2. CONSTRUCTION

2.1 In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes e-mails.

## 3. BASIS OF CONTRACT

3.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions. The Customer is deemed to accept these Conditions when it places an Order.

3.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order or commences work to the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

3.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

- 3.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any illustrations or descriptions, including weights and sizes of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 3.5 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 trade, custom, practice or course of dealing.
- 3.6 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.
- 3.7 Any quotation given by the Supplier shall be deemed as an estimate and may not be the final price of the Order and is subject to change in accordance with these Conditions and the fluctuating prices of the Customer Materials. For the avoidance of doubt, the Supplier is not responsible for final prices that differ from the original quote.
- 3.8 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is expressly specified.

#### **4. GOODS**

- 4.1 The Goods are described in the Goods Specification.
- 4.2 To the extent that the Goods are to be manufactured in accordance with a Goods 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 and other professional costs and expenses) suffered or incurred by the Supplier 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 Goods Specification. This clause 4.2 shall survive termination of the Contract.
- 4.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.
- 4.4 The Supplier reserves the right to amend the Goods Specification if it is impracticable or impossible to follow the Goods Specifications in the design and manufacture of the Goods.

- 4.5 A further fee will be charged for additional or replacement moulds.
- 4.6 The Supplier accepts no liability and responsibility for any Customer Materials provided by the Customer.
- 4.7 Customer Materials may be provided with a delivery note with full details, including but not limited to quantity of the materials supplied.

## **5. DELIVERY OF GOODS**

- 5.1 The Supplier shall ensure that delivery of the Goods is accompanied by a delivery note or invoice which shows the relevant details of the Order.
- 5.2 Delivery of the Goods shall be completed when:
- (a) delivered to the location set out in the Order or such other location as the parties may agree at any time after the Supplier notifies the Customer that the Goods are ready for collection and/or delivery; or
  - (b) the Customer collects the Goods from the Supplier's premises or such other location as may be advised by the Supplier.
- 5.3 Any dates quoted for delivery of the Goods 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 Goods 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 that are relevant to the supply of the Goods.
- 5.4 If the Customer fails to accept or take delivery of the Goods within 5 Business Days of the Supplier notifying the Customer that the Goods are 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 Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the 6<sup>th</sup> Business Day following the day on which the Supplier notified the Customer that the Goods were ready for collection and/or delivery; and
  - (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses including insurance.
- 5.5 If 30 Business Days after the Supplier notified the Customer that the Goods were ready for collection and/or delivery the Customer has not taken or accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any

excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

## **6. DIVISIBILITY CLAUSE**

6.1 The Supplier may deliver the Goods by instalments, which can be invoiced and paid for separately, at the Supplier's discretion. Each instalment shall constitute a separate contract. Any invoice for a delivery shall be payable in full in accordance with terms of payment provided in clause 11 herein. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## **7. QUALITY OF GOODS**

7.1 The Supplier warrants that on delivery the Goods shall:

- (a) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- (b) be reasonably fit for purpose.

7.2 Subject to clause 7.3, if the Customer gives notice in writing within 5 Business Days of delivery that some or all of the Goods are damaged or do not comply with the warranty set out in clause 7.1:

- (a) the Supplier is given a reasonable opportunity of examining such Goods;
- (b) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost within 10 days of such request unless otherwise agreed by the parties; and
- (c) the Supplier shall, at its discretion and option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

7.3 The Supplier accepts no liability and shall not be liable for the Goods' failure to comply with the warranty in clause 7.1 if:

- (a) the Customer makes any further use of such Goods upon delivery or after giving a notice in accordance with clause 7.2;
- (b) the Goods are taken by the Customer to another supplier for further services including but not limited to casting, polishing or any other manufacturing services;
- (c) the Goods are manufactured in accordance with drawings or designs supplied by the Customer or a defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;

- (d) the Goods are manufactured in accordance with the design in the CAD file supplied by the Customer to the Supplier for prototyping or for prototyping and casting;
- (e) the Goods are casted from a wax supplied by the Customer;
- (f) the defect arises as a result of the Supplier using any Customer Material supplied by the Customer;
- (g) the Customer alters or repairs such Goods without first consulting with the Supplier;
- (h) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- (i) the Goods differ from Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards; or
- (j) the Goods differ from Goods Specification as a result of changes or alterations made where it was impracticable or impossible for the Supplier to follow the Goods Specification.

7.4 The warranty set out in clause 7.1 only applies to Goods manufactured or Goods designed and manufactured by the Supplier.

7.5 Except as provided in this clause 7, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 7.1.

7.6 The terms of these Conditions shall also apply to any repaired or replacement Goods supplied by the Supplier under clause 7.2.

7.7 **It is mutually acknowledged that there is an element of risk in producing Goods using the casting process. The Supplier will cast waxes supplied by the Customer but do so entirely on the risk of the customer. The Supplier shall inform the Customer of any breakages of waxes supplied by the Customer as soon as practicably possible. The Supplier recommends a mould is made of any hand carved wax to enable copies to be made in the event of loss in the casting process. The Supplier shall not be responsible for replacing any waxes with breakages.**

## 8. TITLE AND RISK

8.1 The risk in the Goods shall pass to the Customer on completion of delivery.

8.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier

has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

- 8.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) store the Goods separately from all other goods 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 Goods;
  - (c) maintain the Goods 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 15.1(b) to clause 15.1(m); and
  - (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 8.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 15.1(b) to clause 15.1(m), then, without limiting any other right or remedy the Supplier may have:
- (a) the Customer's right to resell Goods 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 Goods in its possession which 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 Goods are stored in order to recover them.

## **9. SUPPLY OF SERVICES**

- 9.1 The Supplier shall provide the Services to the Customer in accordance with the terms of these Conditions.
- 9.2 The Supplier shall use all reasonable endeavours to meet any estimated performance dates for the Services, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 9.3 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 where any such change are material to the Services.

- 9.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 9.5 The Supplier does not guarantee the quality of the original workmanship and no warranty is given by the Supplier in respect of such original workmanship for any repair services. All repair services are provided in good faith and at the Customer's risk.

## 10. CUSTOMER'S OBLIGATIONS

- 10.1 The Customer shall:
- (a) ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate;
  - (b) co-operate with the Supplier in all matters relating to the Goods and/or Services;
  - (c) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Goods and/or Services, and ensure that such information is accurate in all material respects; and
  - (d) ensure that all Customer Materials and Customer Items provided to the Supplier are adequately insured at all times against all risks (including without limitation the risks during casting, manufacturing, assembly, finishing, repairing, transit and transportation) for their full price.
- 10.2 If the Supplier's performance of any of its obligations in respect of the Services 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 10.2; 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.

- 10.3 The Customer undertakes that during the course of dealing with the Supplier and for 6 months after termination of these Conditions the Customer shall not offer to employ or engage or otherwise endeavour to entice away from the Supplier any employee of the Supplier.

## **11. CHARGES AND PAYMENT**

- 11.1 The price for Goods, Services and additional charges shall be the price set out in the invoice rendered by the Supplier before or on delivery of the Goods or on completion of the Services.
- 11.2 The price of the Goods is exclusive of all costs and charges of packaging, insurance and transport of the Goods (if applicable), which shall be paid by the Customer when it pays for the Goods and Services.
- 11.3 The Customer shall either pay a minimum deposit of 50% of the quotation or £25, whichever is greater, at the time of the Order, at the Supplier's discretion. Any such deposit shall be off-set against the final invoice rendered.
- 11.4 The Supplier reserves the right to increase the price of the Goods and/or Services, at any time before delivery, to reflect any increase in the cost of the Goods and/or Services to the Supplier that is due to:
- (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials (including the price of precious metals which is based on the prevailing metal markets at the date of the invoice) and other manufacturing costs);
  - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
  - (iii) any request by the Customer to change or amend their patterns or CAD files including without limitation changes to the size, shape or stone settings;
  - (iv) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods; or
  - (v) any increase in the cost of labour, materials and other manufacturing costs over those included in the quotation and which could not reasonably have been anticipated by the Supplier at the time of such quote or estimate and which are necessary to complete the Goods to the standard expected by the Customer.

- 11.5 In respect of Goods, 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 completion of the Services.
- 11.6 The Customer shall pay each invoice submitted by the Supplier, unless otherwise agreed in writing:
- (a) within 30 days of the date of the invoice; and
  - (b) in full and in cash or cleared funds to a bank account nominated in writing by the Supplier, and
- time for payment shall be of the essence of the Contract.
- 11.7 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**). The Customer shall pay all chargeable VAT which is invoiced by the Supplier.
- 11.8 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, the Supplier at its discretion shall have the right to charge the Customer interest on the overdue amount at the rate of 3%-5% per annum above Barclays Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 11.9 The Supplier reserves the right to promote and provide to the Customer at any time an early-pre payment discount at its discretion.
- 11.10 If payment in full is not made by the due date for payment, the Supplier reserves the right to suspend or cancel future deliveries.
- 11.11 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## **12. INTELLECTUAL PROPERTY RIGHTS**

- 12.1 All Intellectual Property Rights in or arising out of or in connection with the Goods and/or Services shall be owned by the Supplier, unless otherwise agreed between the parties.

- 12.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the Customer obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 12.3 The Customer shall indemnify the Supplier against any action made against the Supplier or any loss incurred by the Supplier as a result of the Customer failing to obtain the required licences under clause 12.2.

### **13. CONFIDENTIALITY**

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 13 shall survive termination of the Contract.

### **14. LIMITATION OF LIABILITY**

#### **THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

- 14.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
  - (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
  - (e) defective products under the Consumer Protection Act 1987.
- 14.2 Subject to clause 13.1:

- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Order price.

14.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

14.4 This clause 13 shall survive termination of the Contract.

## **15. TERMINATION**

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

- (a) the Customer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 5 days after receipt of notice in writing to do so;
- (b) the Customer 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 Customer 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;
- (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 the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the 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 encumbrance 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 charge over the assets of the 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 15.1(b) to clause 15.1(i) (inclusive);
- (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole 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.

15.2 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.

15.3 Without limiting its other rights or remedies, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 15.1(b) to clause 15.1(m), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

15.4 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

- (b) the Customer shall return any Goods 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 and remedies of the parties as at termination shall not be affected, 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 have effect after termination shall continue in full force and effect.

## **16. FORCE MAJEURE**

- 16.1 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), 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.
- 16.2 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.
- 16.3 If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than 4 weeks, 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.

## **17. ASSIGNMENT AND OTHER DEALINGS**

- 17.1 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.
- 17.2 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

**18. NOTICES**

- 18.1 Any notice or other communication given to a party under or in connection with this 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 shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier or e-mail.
- 18.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at such addressor; 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 e-mail, one Business Day after transmission.
- 18.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

**19. SEVERANCE**

- 19.1 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.
- 19.2 If one party gives notice to the other of the possibility that 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.

**20. WAIVER**

- 20.1 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 under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor 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.

**21. NO PARTNERSHIP OR AGENCY**

21.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

**22. THIRD PARTIES**

22.1 A person who is not a party to the Contract shall not have any rights under or in connection with the Contract to enforce its terms.

**23. VARIATION**

23.1 Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Supplier.

23.2 The Supplier reserves the right to vary these Conditions from time to time, including but not limited to the introduction of any additional terms and conditions.

**24. GOVERNING LAW**

24.1 This agreement 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.

**25. JURISDICTION**

25.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive 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).