

## TERMS & CONDITIONS OF SALE

### 1) DEFINITIONS

#### The following definitions shall apply in these Terms and Conditions

- "Business Day":** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
- "Conditions":** the terms and conditions set out in this document.
- "Confidential Information":** any information of a confidential nature concerning the business, affairs, customers, clients or suppliers of the other party or of any member of its group, including but not limited to information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers.
- "Contract":** the contract between the Supplier and the Customer for the sale and purchase of the Goods and/or Services in accordance with these Conditions.
- "Customer":** the person or firm who purchases the Goods and/or Services from the Supplier.
- "Goods":** the goods (or any part of them) set out in the Order.
- "Intellectual Property Rights":** patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- "Order":** the Customer's order for the Goods or Services, as set out in the Customer's purchase order form.
- "Services":** the services set out in the Order.
- "Specification":** any specification for the Goods or Services, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.
- "Supplier":** means Vapormatt Limited, a company registered in England and Wales under company number 01479677 with registered office address at Monarch Centre Venture Way, Priorswood Industrial Estate, Taunton, Somerset, TA2 8DE.
- a) A reference to a statute or statutory provision is a reference to such statute or 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.
  - b) 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.
  - c) A reference to writing or written does not include fax nor emails.

## **2) GENERAL**

- a) The Supplier only supplies Goods and/or Services subject to these Conditions to its Customers.
- b) The Customer seeking to be supplied by the Supplier accepts that these Conditions will govern all relations to the exclusion of any other terms, including conditions, warranties and representations, written or oral, express or implied, even if contained in any of the Customer's documents which purport to provide that the Customer's own or some other terms shall prevail, unless specifically agreed otherwise by the Supplier in writing.
- c) 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.
- d) All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

## **3) SAMPLE**

Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods or Services referred to in them. They shall not form part of the Contract nor have any contractual force

## **4) QUOTATION**

A quotation for the Goods or Services given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.

## **5) ACCEPTANCE OF ORDER**

- a) The Order constitutes an offer by the Customer to purchase the Goods or Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.
- b) Without prejudice to the foregoing, any Customer's order is not deemed to be effective until it is accepted in writing by the Supplier, at which point the Contract shall come into existence.
- c) Once an order has been accepted by the Supplier it may not be cancelled or varied without the Supplier's agreement in writing, on terms which will indemnify the Supplier against loss resulting from such cancellation or variation.
- d) No representative or agent of the Supplier has authority to agree any terms or make any representations inconsistent with these Conditions or to enter into any contract except on the basis of these conditions: any such term representation or contract will bind the Supplier only if in writing and signed by a Director.
- e) The Supplier reserves the right to correct any clerical or typographical errors made by its employees at any time and without notice.

## **6) DESCRIPTIVE MATTER**

- a) All illustrations, drawings, weights, measurements, ratings, performance figures, specifications, whether or not contained in the Contract, must be regarded as approximate representations only and are not binding in detail unless stated to be so in the Supplier's contract. The contents of catalogues, price lists, advertisements or other published matter are stated in good faith as being approximately correct. None shall form part of the contract nor shall deviations from them be made the basis of any claim against the Supplier.

## **7) CUSTOMER'S SPECIFICATION**

- a) Where Goods are made or Services are provided to the Customer's Specification, the Customer undertakes full responsibility for the suitability and accuracy of the Specification and undertakes to indemnify the Supplier against any infringement of any patent, registered design, trade mark, trade name or copyright and any loss, damage or expense which it may occur by reason of such infringement in any country.
- b) No changes shall be made to the Specification following acceptance as described in clause 5) without the Supplier's written consent.

## **8) DESPATCH OF GOODS**

- a) Dates quoted for despatch of Goods are to be treated as estimates only not involving any contractual obligations. The estimated times for despatch are given in all good faith and all reasonable endeavours will be made to adhere to them. However, the Supplier shall be under no liability for any loss or damage whatsoever arising directly or indirectly out of delays in or lateness of despatch whether due to the Supplier's fault or not.

## **9) FORCE MAJEURE**

- a) The Supplier shall not be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from any act of god, war, civil commotion, government restrictions, lock-outs, strike, mutiny, fire, ice, floods, labour disturbances, or any other cause whatsoever beyond the control of the Supplier or owing to any inability of the Supplier to procure the materials, articles or services required for the performance of the Contract. The Supplier shall be the sole judge of the existence of any of the aforesaid difficulties.

## **10) TERMS OF PAYMENT**

- a) Payment shall be made in cleared funds :
  - i) In respect of machines 100% payable at time of order placement.
  - ii) In respect of Services, spares, abrasives, chemicals and all other articles or items either by net cash with order or in respect of approved accounts only, 30 days following the date of invoice.
- b) Credit Card Payments are accepted.
- c) Time for payment shall be of the essence of the contract.
- d) Without prejudice to any other right of the Supplier, interest will be payable on all accounts overdue by more than 60 days at 8% above the Bank of England Base Rate for the time being as allowed in the Late Payment of Commercial Debts Regulations 2013. 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.
- e) All bills of exchange tendered in respect of an order for a machine, must be received by the Supplier before manufacture can commence.
- f) The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 11) DELIVERY/COLLECTION OF GOODS

- a) Unless otherwise agreed in writing by the Supplier:
  - i) The Supplier shall deliver the Goods to an address or port in the mainland of Great Britain to be specified forthwith by the Supplier with all necessary instructions as and when so required by the Supplier: the Supplier shall be entitled to add to the Contract price a reasonable charge for packaging & delivery and off-loading shall be the Customer's risk and expense; and
  - ii) If the Customer is to take delivery of the Goods or any instalment thereof at the Supplier's premises the same shall be collected no later than 14 days after receiving notification from the Supplier that the Goods are ready.
- b) In the case of Goods to be sent by sea the Supplier shall be under no obligation to give the Customer the notice specified in section 32 (3) of the Sale of Goods Act 1979.
- c) A charge will be made by the Supplier due to suspension or deferment of any order by the Customer or in the event of the Customer defaulting in the collection or in the giving of instructions for the delivery of the Goods or the acceptance of any Goods to provide for any costs incurred by the Supplier or for a reasonable amount in respect of the storage of any Goods and interest at the rate specified in clause 10) shall be payable from the date of the incurrence of the same.
- d) Delivery is completed on the completion of unloading or loading of the Goods at the delivery or collection location set out in the Order or as the parties may from time to time specify in writing.
- e) The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by 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.

## 12) RISK

- a) The relevant date for the purposes of this clause 12) shall be the date on which:
  - i) The Customer takes delivery of the Goods at the Supplier's premises or
  - ii) The Supplier despatches from its premises the Goods or
  - iii) The Customer defaults in his obligations under clause 11) or
  - iv) Any one of the circumstances in clause 15) arises

whichever shall first occur.
- b) In the case of Goods which the Supplier has agreed to supply the risk in the Goods shall subject to any agreement in writing by the Supplier, pass to the Customer on the relevant date as defined in clause 12) a) hereof (ie at the inception of the event(s) giving rise to the same) or the date (if earlier) on which, the goods being ready for delivery, delivery is postponed at the Customer's request.
- c) All other Goods shall be at the Customer's sole risk at all times and the Supplier shall not be liable for any loss of or damage sustained by any Goods left with the Supplier howsoever caused and whether or not attributable to negligence on the part of the Supplier or negligence or wilful default on the part of any servant or agent of the Supplier.
- d) Where the Supplier might otherwise be liable no claim for damage in transit, shortage of delivery or loss of Goods will be entertained unless the Customer shall have given to the Supplier written notice of such damage, shortage or loss with reasonable particulars thereof within 3 days of receipt of the Goods or (in the case of total loss) of receipt of the invoice or other notification of despatch.

### 13) PRICES

- a) Prices for Goods are quoted Net ex the Supplier's works, unless otherwise stated. The Supplier shall be entitled to increase the price stated in the Contract to take account of variations in the cost of raw materials, fuel, power, components, labour, transport overheads (or other production costs) rates of currency exchange or in the Customer's specifications instruction or design (including any alteration arising from error or inadequacy therein) or in the event that the Customer orders part only of the quantity referred to in any quotation.
  - i) The price quoted is exclusive of import duties, purchase taxes, value added taxes etc, originating in the country of import;
  - ii) Price is exclusive of any carriage.
- b) The charges for Services shall be calculated on a time and materials basis unless stated otherwise in the Order or Specification:
  - i) the charges shall be calculated in accordance with the Supplier's daily fee rates, as set out in the Order or, failing that its current price list at the date of the Contract;
  - ii) the Supplier's daily fee rates for each individual person are calculated on the basis of an eight-hour day from [8.00 am to 5.00 pm] worked on Business Days;
  - iii) the Supplier shall be entitled to charge an overtime rate of 50% of the 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 sub-clause ii) above; and
  - iv) 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 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.

### 14) SUPPLY OF SERVICES

- a) The Supplier shall supply the Services to the Customer in accordance with the Order and, where applicable, the Specification in all material respects.
- b) The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- c) The Supplier reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- d) The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- e) The Customer shall:
  - i) co-operate with the Supplier in all matters relating to the Services;
  - ii) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
  - iii) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
  - iv) comply with all applicable laws, including health and safety laws;
  - v) keep 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; and
  - vi) comply with any additional obligations as set out in the Order, or where applicable, the Specification.

- f) 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"):
  - i) without limiting or affecting any other right or remedy available to it, the Supplier shall 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 in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - ii) 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 sub-clause f); and
  - iii) 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.

#### **15) DEFAULT BY CUSTOMER**

If the Customer shall fail to make payment when it becomes due or shall make default in or commit any other breach of his obligations to the Supplier or shall commit any act of bankruptcy or shall have any execution of distress levied upon his goods or property or being a Limited Company shall pass any resolution or suffer any petition to be presented to the Court to wind up such Supplier's business, or if a Receiver of the whole or any part of its assets or a Liquidator to be appointed (or any similar insolvency event in a jurisdiction to which the Customer is subject), the Supplier shall have the right forthwith to defer or cancel any further deliveries and/or treat the Contract of which these Conditions form part as determined but in each case without prejudice to its right to the full purchase price for Goods delivered and for damages for any loss suffered in consequence of such deferral cancellation or determination.

#### **16) TITLE DOES NOT PASS UNTIL GOODS ARE PAID FOR**

- a) The following provisions shall apply to all Goods which under the Contract the Supplier agrees to sell or supply to the Customer. No failure by the Supplier to enforce strict confidence by the Customer with such provisions shall constitute a waiver thereof and no termination of the Contract shall prejudice limit or extinguish the Supplier's rights under this clause.
- b) Upon delivery of the Goods the Customer shall hold the Goods solely as bailee for the Supplier and the Goods shall remain the property of the Supplier until such time as the Customer shall have paid to the Supplier the full purchase price thereof. Until such time the Customer if so required by the Supplier shall store the Goods separately from Goods not being the property of the Supplier and in such a fashion as to be readily identifiable by the Supplier who shall be entitled to examine the Goods upon reasonable notice, to require that the Goods shall be delivered up to it and to recover the same and for the purpose of exercising such rights the Supplier its employees and agents with appropriate transport may enter upon the Customer's premises and any other location where the Goods are situated.
- c) The Customer shall maintain all appropriate insurance in respect of Goods from the date on which the risk therein passes to him. In the event of any loss or damage occurring while the Goods remain the property of the Supplier shall hold all insurance monies received in respect thereof as trustee for the Supplier and separate and identifiable from all other monies and shall forthwith remit to the Supplier the full purchase price of the Goods less any part thereof which has already been paid.
- d) Until title to the Goods has passed to the Customer, the Customer shall:
  - i) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - ii) notify the Supplier immediately if it becomes subject to any of the events listed in clause 15); and
  - iii) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

## **17) GUARANTEE AND DEFECTS**

- a) All Goods sold by the Supplier are supplied with the benefit of the terms implied by Section 12 of the Sale of Goods Act 1979. Subject thereto, and whether or not the Contract is a contract of sale, all other conditions, warranties and other terms express or implied statutory or otherwise, are expressly excluded, save insofar as contained herein or as otherwise expressly agreed by the Supplier in writing PROVIDED that in and insofar as any legislation or any order made thereunder shall make or have made it unlawful to exclude or purport to exclude from the Contract any term or shall have made unenforceable any attempt to exclude any such term, the foregoing provisions of this clause will not apply to any such term.
- b) Save as otherwise provided in these Conditions the Supplier's liability in respect of any defect in or failure of Goods supplied or work done and not arising in whole or part by improper use by the Customer is limited to replacing or (in its discretion) repairing or paying for the repair or replacement of Goods which within 12 months of delivery to the Customer are found to be defective by reason of faulty or incorrect design workmanship parts or material and in the event of any inaccuracy in any weight dimensions or other description which is included in the Specification or is a part of a Contract. The Supplier's liability in respect of any such inaccuracy shall not exceed the price of the Goods to which the description relates. Conditions precedent to the Supplier's liability hereunder shall be that:-
- (1) The Customer as soon as reasonably practicable:
  - (2) shall have given to the Supplier reasonable notice of the defect, failure or inaccuracy and
  - (3) shall have either returned the Goods to the Supplier or provided authority for the Supplier's servants or agents to inspect them, as the Supplier may request.
- ii) In the case of a defective machine:
- (1) the initial start up or commissioning on the Customer's premises shall have been carried out by the Supplier;
  - (2) maintenance thereof must have been carried out in accordance with the maintenance schedule supplied by the Supplier;
  - (3) no abrasives other than processing media or material shall have been used in conjunction with the machine unless manufactured supplied or recommended in writing by the Supplier for such use; and
  - (4) no part shall be fitted to or used in conjunction with the machine unless manufactured supplied or recommended in writing by the Supplier for such use; and
  - (5) any dismantlement or repair of the machine shall except as laid down in the maintenance schedule supplied by the Supplier have been carried out only by the Supplier or by some other person expressly approved by the Supplier in writing as suitable for such operation. The Supplier shall have no other or further liability in respect of any direct, indirect or consequential loss or damage sustained by the Customer arising from or in connection with any such defect failure or inaccuracy as aforesaid.
- c) The guarantee in this clause 17) shall not cover parts which are subject to abrasion and therefore wear and in the case of the Goods supplied by the Supplier and being of another's manufacture its responsibility hereunder is limited (so far as the Supplier is capable) of assigning to the Customer the benefits of any guarantee or warranty given to the Supplier.
- d) Where the Supplier agrees to repair or replace Goods in accordance with the foregoing provisions of this clause at any time specified for delivery under the Contract shall be extended for such period as the Supplier may reasonably require.

## **18) COMPONENT HOLDING FIXTURES**

Except in specific instances the Supplier does not provide component holding fixtures or accessories, these being the responsibility of the Customer. Neither failure of the Customer's fixtures or accessories during the acceptance testing of a machine in the Supplier's factory prior to dispatch nor delay in the supply of such fixtures or accessories shall prevent the Supplier from dispatching the machine.

## **19) INSTALLATION**

Costs of installation on the Customer's premises are not included in the price quoted unless expressly stated. Where the same is included the costs are based on the work being executed during normal working hours and overtime will be charged extra. The Supplier does not guarantee the skill or ability of its employees and it must be kept indemnified by the Customer against all loss or damage incurred during or arising out of work on which its employees may be or have been engaged. Time spent attending machinery after starting will be charged for unless otherwise agreed. Site work is accepted on the understanding that a free supply of light and power for any portable tools, including gas and arc welding equipment, will be made available by the Customer.

## **20) HEALTH AND SAFETY**

The attention of the Customer is drawn to the provisions of Section 6 of the Health and Safety at Work Act 1974. The Supplier will make available upon request information relating to the use of the Goods to ensure that as far as is reasonably practicable they will, when put to that use, be safe and without risks to health. The Customer warrants that he will ensure that any person to whom he supplied the Goods is made aware that such information is available from the Supplier.

## **21) PERFORMANCE**

All performance and finishes quoted are approximate only unless such performance or finish has been guaranteed within certain tolerances these being quoted only after specific tests on the Customer's components have been carried out, and an official Test Report issued. The cost of this Test and Report is not included in the price.

## **22) INTELLECTUAL PROPERTY**

- a) All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier and all Intellectual Property Rights used by or subsisting in the Goods are and shall remain the sole property of the Supplier.
- b) The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use the Intellectual Property Rights used by or subsisting in the Goods or arising out of or in connection with the Services solely for the purpose of receiving and using the Goods and Services in its business.
- c) The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 22)b).
- d) The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

## **23) CONFIDENTIALITY**

- a) Each party undertakes that it shall not at any time during this agreement and for a period of six years after termination disclose to any person any Confidential Information, except as permitted by clause 23)b).
- b) Each party may disclose the other party's Confidential Information:
  - i) to its employees, officers, agents, consultants or subcontractors ("Representatives") who need to know this information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement, provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this clause 23) as though they were a party to this agreement. The disclosing party shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this clause 23); and
  - ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- c) Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this agreement are granted to the other party or to be implied from this agreement. In particular, no licence is hereby granted directly or indirectly under any patent, invention, discovery, copyright or other intellectual property right held, made, obtained or licensable by either party now or in the future.



## **24) LIMITATION OF LIABILITY**

- a) Nothing in these Conditions shall limit or exclude the Supplier's liability for:
  - i) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - ii) fraud or fraudulent misrepresentation;
  - iii) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
  - iv) defective products under the Consumer Protection Act 1987; or
  - v) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- b) Subject to clause 24)a):
  - i) the Supplier shall under no circumstances whatsoever 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
  - ii) 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 price of the Goods and Services supplied by the Supplier under this Contract.
- c) The Supplier's liability in respect of damaged or defective Goods, if any, shall be limited to replacing or (in its discretion) repairing such Goods and it shall be a condition precedent to any such liability that the Customer shall if so requested have returned damaged Goods to the Supplier within 14 days of such request.

## **25) ENTIRE AGREEMENT**

- i) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- ii) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

## **26) WAIVER**

- i) No failure or delay by a party to exercise 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 the 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.

## **27) SEVERANCE**

- i) 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.

## **28) 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 shall be delivered personally, sent by pre-paid first class post or other next working day delivery service.

- b) A notice or other communication shall be deemed to have been received:
- i) if delivered personally, when left at the address referred to in this clause 28);
  - ii) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting;
  - iii) if sent by pre-paid airmail, at 9.00am on the fifth Business Day after posting or at the time recorded by the delivery service;
  - iv) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

**29) THIRD PARTY RIGHTS**

No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.

**30) GOVERNING LAW**

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

**31) JURISDICTION**

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