

Plastic Omnium Urban Systems Ltd

General Conditions of Purchase

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Plastic Omnium Urban Systems Ltd

General Conditions of Purchase

INTERPRETATION

The definitions and rules of interpretation in this clause apply in these conditions.

Contract: The Purchase Order and the Supplier's acceptance of it in accordance with condition 2.3.

Customer: Plastic Omnium Urban Systems Limited, a registered company in England and Wales, registration number 03276158.

Goods: The goods, materials, products or services agreed in the Contract to be purchased by the Customer from the Supplier (including any part of it)

Government Contract: Any such Contract issued by or with connection to or on the behalf of a Governmental or Civic department.

Head Office: 51 Hainge Road, Tividale, Oldbury, West Midlands B69 2NF.

Intellectual Property Rights: Patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or

unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Inspection Department: The authorized department for the inspection of Goods on behalf of the Customer.

Purchase Order: The Customer's written instruction to supply the Goods, incorporating these conditions.

Purchase Department: The authorised department for the purchase of Goods on behalf of the Customer.

Relevant Terms: The terms of this document that apply to the facets of a Contract made between the Supplier and the Customer.

Supplier: The person, firm or company who accepts the Purchase Order in accordance with condition 2.3.

1. APPLICATION OF CONDITIONS

1.1. These conditions shall:

1.1.1. Apply to and be incorporated in the Contract; and

1.1.2. Prevail over any inconsistent terms or conditions contained in or referred to in the Supplier's quotation, acceptance, correspondence or elsewhere or implied by law, trade custom, practice or course of dealing.

1.2. No addition to, variation of, exclusion or attempted exclusion of the Purchase Order or these conditions or any of them shall be binding on the Customer unless in writing and signed by a duly authorised representative of the Customer.

1.3. Where the Purchase Order is for more than one item, it shall (following acceptance by the Supplier) be regarded as a single Contract for all Goods supplied pursuant to that Purchase Order.

2. EFFECT OF PURCHASE ORDER

2.1. The Customer shall only be bound by an order if it is issued on the Customer's standard Purchase Order form and signed by a duly authorised representative of the Customer.

2.2. The Purchase Order constitutes an offer by the Customer to purchase the Goods subject to these conditions. Accordingly, any acceptance of the Purchase Order by the Supplier shall establish a contract for the sale and purchase of that Goods on these conditions. Any counter-offer made by the Supplier to supply the Goods on other conditions shall only be validly accepted if such acceptance is in writing and signed by a duly authorised representative of the Customer.

2.3. The execution and return of the acknowledgement copy of the Purchase Order form by the Supplier, or the Supplier's execution, commencement of work or commencement of delivery pursuant to the Purchase Order constitutes acceptance of the Purchase Order on these conditions by the Supplier.

3. SUPPLIER'S WARRANTY

3.1. The Supplier warrants to the Customer that:

3.1.1. The Goods will conform with the quality, description and other particulars of the Goods stated in the Purchase Order;

3.1.2. The Goods will conform to all samples, drawings, descriptions and specifications provided to the Customer by the Supplier;

3.1.3. The Goods will conform with all standards referred to on any part of the Goods and in any product packaging and/or documentation in, with or in relation to which the Goods is supplied;

3.1.4. The Goods will be of satisfactory quality and fit for any intended uses, either made expressly or impliedly or otherwise known to the Supplier.

3.1.5. Failing specific guarantees or arrangements with regard to the quality of the Goods, these Goods will be free from all defects in materials, workmanship and installation for a minimum period of 12 months from the date of delivery;

3.1.6. The Goods will comply with all performance and other specifications stated in the Purchase Order, and all applicable legislation for the time being in force;

3.2. The Customer's rights under the Contract are in addition to the statutory terms implied in favour of the Customer by the Sale of Goods Act 1979 and any other statute.

3.3. The provisions of this condition 3 shall survive any delivery, inspection, acceptance, payment or performance pursuant to the Contract and shall extend

to any replacement, repaired, substitute or remedial Goods provided by the Supplier.

4. QUANTITIES

4.1. Unless the Customer has agreed otherwise in writing, the Supplier shall deliver the exact specified quantities of items comprised in the Goods in accordance with the Purchase Order. Without prejudicing or affecting its other rights and remedies, the Customer reserves the right to reject incomplete deliveries and to return excess quantities at the Supplier's risk and expense.

5. INSPECTION OF GOODS

5.1. The Supplier shall:

5.1.1. Carefully test and inspect the Goods before delivery to ensure that it complies with the requirements of the Purchase Order; and

5.1.2. Before delivery will be considered to have been accepted and completed all Goods must be to the satisfaction of a nominated agent of the Customer from the Inspection Department.

5.2. The Customer reserves the right to request certificates of quality or test certificates for the Goods at any stage of manufacture or assembly.

5.2.1. Such certificates shall clearly state the Customer's order numbers and any item or Goods numbers.

5.3. If, as a result of any inspection or test, the Customer finds that the Goods or any items comprised within it do not comply with the Purchase Order, or are unlikely to comply with it on completion

of manufacture, processing or performance, the Customer may inform the Supplier, and the Supplier shall immediately take steps as necessary to ensure compliance with the Purchase order or with the express or implied usage of the Goods. Nothing in this clause shall give prejudice to any other right the Customer shall have in the Goods.

6. DELIVERY, INSTALLATION AND ACCEPTANCE OF GOODS

6.1. The Supplier shall deliver the Goods on the date specified in the Purchase Order or, if no such date is specified, within 28 days of the date of the Purchase Order.

6.2. Should the Supplier be unable to deliver the Goods to the Customer by the date specified in the Purchase order, or if no such date is specified, within 28 days of the date of the Purchase Order, then the Supplier shall;

6.2.1. Inform the Customer in writing as to the reason for the initial delay and the proposed and revised time for delivery

6.2.2. Update the Customer in writing every 3 days from the first notification as to the steps taken by the Supplier or its agents to adhere to the delivery date as well as any proposed and revised date of delivery.

6.3. Time is of the essence as to the delivery of the Goods under the Contract and if the Supplier does not comply with its obligations in the preceding sentence, the Customer may:

6.3.1. Cancel the Contract in whole or in part without incurring any liability to the

Supplier. Upon notification to the Supplier this termination will be with immediate effect and shall take leave of all other time limits specified within these terms;

6.3.2. Refuse to accept any subsequent delivery of items comprised in the Goods which the Supplier attempts to make;

6.3.3. Purchase substitute items elsewhere; and

6.3.4. Hold the Supplier accountable for any loss and additional costs incurred.

6.4. The Goods shall be properly packed and secured in such manner as to enable it to reach its destination in good condition. No charge shall be made for wrapping, packing, cartons, boxes, crating or containers unless specified in the Purchase Order, and the Customer shall not be responsible for returning any such materials unless agreed in writing.

6.4.1. If so requested by the Supplier to return the packaging materials the Customer will at the Suppliers expense and risk return the same to the Supplier.

6.5. On, or before the date on which the Goods are dispatched, a separate advice note must be sent to the location to which the Goods are to be forwarded. Immediately after the Goods have been dispatched an invoice must be sent to the Purchase Department at Head Office.

6.6. The Goods shall be delivered by the Supplier carriage free to the place of delivery specified in the Purchase Order, or as otherwise specified by the Customer by means of advice notes quoting the Customer's order number.

6.7. The Goods shall be received at the place of delivery, subject to the Customer's inspection and approval, pursuant to Condition 5 of these Terms.

6.8. Any Goods which the Customer rejects as not conforming with the Purchase Order or otherwise be considered unfit for purpose shall be returned at the Supplier's risk and expense.

6.9. No responsibility will be accepted by the Customer for any extra expense of delivery to the ultimate consignee caused by or resulting from improper marking unless otherwise expressly agreed in writing.

6.10. The Goods shall remain the Property of the Supplier until actually delivered in accordance with the Purchase Order and accepted by the Customer's nominated agents.

6.11. Unless the Customer and the Supplier have, before or at the same time as the Purchase Order, agreed in writing (signed on behalf of the Customer by a nominated agent of the Customer) additional conditions regarding preparation of or environmental requirements at the site at which the Goods are to be installed, the Supplier acknowledges and agrees that the Goods are suitable to be installed and used at the premises at which the Customer intends to use it and that there are no additional conditions regarding site preparation or environmental requirements.

7. RISK AND PROPERTY

7.1. The Goods shall be at the risk of the Supplier until delivery to the Customer

at the location specified in the Purchase Order, or as otherwise specified by the Customer in accordance with Condition 6.6.

7.2. Ownership of the Goods shall pass to the Customer on completion of delivery (including off-loading) in accordance with the Purchase Order, except that if the Goods are paid for before delivery ownership shall pass to the Customer once payment has been made. The passing of ownership in the Goods shall not prejudice any right of rejection to which the Customer may be entitled under the Contract or otherwise.

8. PRICES

8.1. All prices shall be as stated in the Purchase Order unless agreed otherwise in writing.

8.1.1. This condition shall only be modified if the Supplier quotes or offers to a third party lower prices or better terms for Goods of similar quality, quantity or description to the Goods (or the items comprised in it).

8.1.2. In such circumstances, the Customer shall be entitled to purchase the Goods (or the relevant items comprised in it) on the same terms and shall be entitled to a refund of the amount of the difference in respect of all such Goods supplied after whichever is the earlier of the first quotation or the first supply at the lower price or better terms (as the case may be).

8.2. All prices are fixed and inclusive of delivery, packaging, packing, shipping, carriage, insurance and other charges and dues, and are not subject to adjustment

save as specifically provided in these conditions or the Purchase Order.

8.3. Where the Purchase Order shall be shown by endorsement to apply to a Government Contract it shall be subject in all respects to the same conditions as such Government Contracts.

9. SUPPLIER'S RESPONSIBILITIES

9.1. All jigs, tools, dies, components and materials supplied by the Customer to the Supplier for use in connection with a Purchase Order (potential or actual) are at the Supplier's risk and responsibility whilst not in the possession or direct control of the Customer, or its nominated agents.

9.2. By accepting the Purchase Order, the Supplier guarantees that the Goods will be equipped with all mandatory regulatory safety systems of the appropriate jurisdiction or those usually employed in the respective industry. The standard of safety shall be whichever is held to be the more stringent.

9.3. In addition, the Supplier must itself propose additional safety systems with which its Goods can be fitted.

9.4. In all instances where the Purchase Order involves services or requires maintenance to be provided on the Customer's premises, the Supplier must take all measures necessary to satisfy the legal and regulatory provisions and internal rules as regards Health, Safety and the Environment.

9.5. In that respect, the Supplier must in particular, before any work is undertaken on the Purchaser's premises by its personnel or those acting on its behalf or as its agents, make contact with the person responsible for safety at the site

and with them provide for implementation of the consultation procedure imposed by law and ensure that its personnel have all approvals and/or authorisations required to perform the job held.

9.6. The Supplier must draw these aforementioned safety rules to the attention of subcontractors and obtain said subcontractors' agreement to said rules in writing.

9.7. The Customer reserves the right to require compliance with the OHSAS 18001 (Safety) and ISO 14001 (Environment) standards.

9.8. In the event of failure to comply with safety rules, in accordance with Condition 13 (Termination), the Customer reserves the right to immediately cancel the Contract without any compensation or to refuse the Supplier's and/or its subcontractors' personnel and vehicles access to sites.

9.9. In addition, non-compliance with safety rules by the Supplier, after prior service of formal notice to remedy the breach within five days, if the Supplier fails to act accordingly, results in the application of a fixed, non-discharging penalty equal to 10% of the total amount excluding tax of the Contract, without prejudice to the entitlement to have the harm caused made good in full.

9.10. The Supplier and any carriers it appoints must comply with the safety and driving requirements at our premises, which they request on arrival.

10. PAYMENT

10.1. Unless otherwise stated in the Purchase Order, payment of invoices shall be made by the last working day of the month following the month in which the

Goods are received by the Customer in accordance with the Purchase Order.

10.2. Without prejudice to any other right or remedy available, the Customer reserves the right to set off any amount at any time owing to it by the Supplier against any amount payable by it to the Supplier under the Contract.

11. INDEMNITY

11.1. The Supplier shall indemnify and hold the Customer harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, the Customer as a result or in connection with:

11.1.1. Any alleged or actual infringement, whether or not under English law, of any third party's Intellectual Property Rights or other rights arising out of the use, manufacture or supply of the Goods; or

11.1.2. Defective workmanship, quality or materials in or in relation to the Goods; or

11.1.3. Any claim made against the Customer in respect of any liability, loss, damage, injury, cost or expense sustained by the Customer's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the Contract by the Supplier howsoever arising;

11.1.4. The Supplier shall indemnify the Customer against the consequences of any accident or failure to observe requirements of the Law occasioned by the Supplier, his servants, agents or sub contractors

11.2. The Supplier confirms it is fully aware of the Customer' ethical Principles on Child and Forced Labour. The Supplier certifies that it does not and will not employ any person to produce Goods or provide services relating to the production of such Goods for the Customer who is under sixteen (16) years of age, or eighteen (18) years of age in the case of hazardous Services or work (hereinafter "Child Labour"), unless the Supplier first clearly notifies and obtains the written approval of the Customer.

11.3. The Supplier certifies that the workers it uses, and will use, to produce Goods and supply Services in relation to these Goods are present voluntarily.

11.4. The Supplier certifies that it does not and will not knowingly use Child or Forced labour and that it complies and will comply at all times with the applicable statutory minimum standards regarding employment conditions in the European Union when providing services under this Contract.

11.5. The Supplier understands that these certifications and undertakings are essential to this Contract.

11.6. The Supplier agrees to indemnify the Customer and hold the Customer harmless with respect to any liability arising from the contravention of this provision by Seller. In addition;

11.6.1. The Supplier also agrees that, in the event that the Customer determines that a violation of this provision has occurred, the Customer shall notify the Supplier and the Supplier shall immediately remedy the violation.

11.6.2. In the event that the Customer determines that Supplier has not remedied the violation, then the Customer may terminate this Contract immediately, with such termination falling under the provision of Condition 13.

11.7. It is the Supplier's responsibility to comply with international laws, standards and regulations applicable as regards the environment, health, safety, employment, work by minors, illicit, forced or concealed employment, discrimination and human rights.

11.8. The Customer reserves the right at all times to conduct audits at the premises of the Supplier and/or its subcontractors which they will not oppose.

11.9. The Supplier states and guarantees that it has all authorisations necessary to conduct its business. The Supplier undertakes to maintain those authorisations current and to provide a copy of them when so requested by the Customer. In addition;

11.9.1. The Supplier guarantees to ensure its Goods and the production of these Goods complies with the legal provisions applicable in countries where it's Goods are sold.

11.9.2. The Supplier certifies it shall comply with the European Community regulation "REACH" (EC 1907/2006) on chemicals and their safe use.

11.9.3. In particular, the Supplier shall register, if necessary, the substances contained in the Goods in accordance with the REACH regulation. Such registration shall take into account the use of any substances by the Customer and include such use in the assessment of chemical safety.

11.9.4. The Supplier undertakes to hand over quarterly to the Customer or any

organization charged with collecting REACH data on behalf of the Customer an update on said substances and articles ordered and concerned by the European Community regulation "REACH"

11.9.5. The Supplier represents and guarantees that the Goods do not contain any CMR (Carcinogenic, Mutagenic, Reprotoxic) substances of category 1A and 1B, as defined in REACH regulation.

12. CONFIDENTIALITY AND THE CUSTOMER'S PROPERTY

12.1. The Supplier 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 Supplier by the Customer or its agents, and any other confidential information concerning the Customer's business or its products which the Supplier may obtain.

12.2. The Supplier shall restrict disclosure of such confidential material to such of its employees as need to know for the purpose of discharging the Supplier's obligations to the Customer

12.3. The Supplier shall ensure that such employees are subject to obligations of confidentiality corresponding to those which bind the Supplier.

12.4. All materials, equipment, tools, copyright, rights in designs and any other Intellectual Property Rights in all drawings, specifications and data supplied by the Customer to the Supplier shall at all times be and remain the exclusive property of the Customer, and shall be held by the Supplier in safe custody at its own risk and

maintained and kept in good condition by the Supplier until returned to the Customer, and shall not be disposed or used other than in accordance with the Customer's written instructions or authorisation.

12.5. The Supplier shall return all copies of any such material to the Customer immediately on the Customer's first written request.

12.6. This Condition 12 shall survive the termination of the Contract, however arising. It is agreed that Condition 12 is severable and separate from this agreement in the event of the Contract being rescinded or cancelled.

13. TERMINATION

13.1. The Customer may cancel the Contract (for all or part only of the Goods) by giving written notice to the Supplier at any time before delivery, in which case the Customer shall pay the Supplier the price for the cancelled Goods, less any cost savings accruing to the Supplier by reason of the cancellation.

13.2. Without prejudice to any other rights or remedies to which the Customer may be entitled, the Customer may terminate the Contract without liability to the Supplier if:

13.2.1. The ability of the Customer to accept delivery of the Goods is delayed, hindered or prevented by circumstances beyond its reasonable control pursuant but not exclusive of Condition 15; or

13.2.2. The Supplier commits any breach of its obligations under the Contract which

does not provide grounds for immediate termination (including but not exclusive of condition 6 and 9) and fails to remedy that breach to the Customer's written satisfaction within 14 days of receiving written notice from the Customer requiring its remedy: or

13.2.3. An order is made or a resolution is passed for the winding up of the Supplier, or circumstances arise which entitle a Court of competent jurisdiction to make a winding-up order in relation to the Supplier; or

13.2.4. An order is made for the appointment of an administrator to manage the affairs, business and property of the Supplier, or documents jurisdiction for the appointment of an administrator of the Supplier, or documents are filed with a Court of competent jurisdiction for the appointment of an administrator of the Supplier, or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986) ; or

13.2.5. A receiver is appointed of any of the Supplier's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Supplier, or if any other person takes possession of or sells the Suppliers assets; or

13.2.6. The Supplier makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Supplier, or if any other person

takes possession of or sells the Suppliers assets; or

13.2.7. The Supplier makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt; or

13.2.8. The Supplier ceases, or threatens to cease, to trade; or

13.2.9. There is a change of control of the Supplier within the meaning of section 1124 of the Corporation Tax Act 2010; or

13.2.10. The Supplier takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

13.2.11. The Supplier breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

13.2.12. The Supplier 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 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986

13.3. Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly or implicitly stated to survive termination.

13.4. Any provision of this Contract that expressly or by implication is intended to come into or continue in force on or after termination of this agreement shall remain in full force and effect.

13.5. Termination of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

14. REMEDIES

14.1. If any Goods are not supplied in accordance with, or the Supplier fails to comply with, any terms of the Contract, the Customer may (without prejudice to any other right or remedy) exercise any one or more of the following rights or remedies, whether or not any part of the Goods has been accepted by the Customer:

14.2. Rescind the Contract; or

14.3. Reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods and their carriage shall be paid immediately by the Supplier once returned to the Suppliers control; or

14.3.1. Require the Supplier, at the Supplier's expense, either (at the Customer's option) to remedy any defect in the Goods and carry out such other work as is necessary to ensure that the Goods are in all respects in accordance with the Purchase Order or to supply replacement equipment,

14.3.2. Should the Supplier refuse to remedy the defect in the Goods or be unable to supply replacement Goods

within 15 days of receiving such a request, the Customer may purchase replacement Goods from another source and the Supplier shall reimburse the Customer for all costs and expenses reasonably incurred in doing so; or

14.3.3. Refuse to accept any further deliveries of the Goods, without liability to the Supplier; and

14.3.4. In any case, to claim such damages as it may have sustained in connection with the Supplier's breach of the Contract not otherwise covered by Condition 14.

15. FORCE MAJEURE

15.1. The Customer may defer the date of delivery or payment, or cancel the Contract or reduce the amount of Goods ordered, if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including without limitation;

15.1.1. Strikes, lock-outs or other industrial disputes (excluding the workforce of the Customer),

15.1.2. Failure of a utility service or transport or telecommunication network,

15.1.3. Act of God, war, riot, civil commotion, malicious damage,

15.1.4. Compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery,

15.1.5. Fire, flood, storm or,

15.1.6. Default of suppliers or sub-contractors.

16. ANTI-BRIBERY

16.1. The Supplier shall:

16.1.1. Comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.

16.1.2. Not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

16.1.3. Comply with the most recent Policies regarding Ethics, Anti-bribery and Anti-corruption either as Policies of the Customer or of the relevant industry body which regulates the production of such Goods or Services as the Supplier may produce.

16.1.4. Have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with Condition 16.1.2, and will enforce them where appropriate;

16.1.5. Promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this agreement;

16.1.6. Immediately notify the Customer (in writing) if a foreign public official becomes an officer or employee of the Supplier and/or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers or employees and/or direct or indirect owners at the date of this agreement);

16.2. Without prejudice to condition 21.1, the Supplier shall ensure that any person associated with the Supplier who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier contained within Condition 16.

16.2.1. The Supplier shall in all circumstances be responsible for the observance and performance by such persons of the aforementioned equivalent terms, and shall in all circumstances be directly liable to the Customer for any breach by such persons of any of the aforementioned terms howsoever arising.

16.3. Breach of this condition shall be deemed a breach, which is not redeemed within the specified period, under Condition 13

16.4. For the purpose of this Condition, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

16.5. For the purposes of this Condition a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.

17. VARIATION

17.1. No variation of this agreement shall be effective unless it is in writing and

signed by the parties (or their authorised representatives).

18. WAIVER

18.1. No failure or delay by a party to exercise any right or remedy provided under this agreement 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.

18.2. A waiver of any right under the Contract is only effective if it is in writing and it applied only to the party to whom the waiver is addressed and the circumstances for which it is given.

18.3. Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

19. RIGHTS AND REMEDIES

19.1. Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20. SEVERANCE

20.1. If any provision or part-provision of this agreement 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.

20.2. 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 this agreement.

20.3. If any provision or part-provision of this agreement 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.

21. ASSIGNMENT

21.1. The Supplier shall not, without the prior written consent of the Customer, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

21.2. The Customer may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

22. THIRD PARTY RIGHTS

22.1. The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit or be enforceable by, anyone else.

23. NOTICES

23.1. Any notice or other communication given to a party under or

in connection with this contract shall be in writing and shall be:

23.1.1. delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

23.1.2. Sent by fax to its main fax number.

23.2. Any notice or communication shall be deemed to have been received:

23.2.1. If delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

23.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

23.2.3. If sent by fax, at 9.00 am on the next Business Day after transmission.

23.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include e-mail.

24. GOVERNING LAW

24.1. The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are 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 agreement or its subject matter or formation (including non-contractual disputes or claims).