

W.Potter & Sons (Poultry) Limited
Terms and Conditions for the Supply of Goods and Services

1. BASIS OF CONTRACT

- 1.1 These terms and conditions shall apply to all contracts for the sale of Goods and/or Services between us to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice, course of dealing or industry norms and guidelines.
- 1.2 Each order or acceptance of a quotation for Goods and/or Services sent by you to us shall be deemed to be an offer by you to buy Goods and/or Services subject to these terms and conditions. No order placed by you shall be deemed to be accepted by us until a written acknowledgement of order is issued by us or (if earlier) we deliver the Goods and/or Services to you.
- 1.3 Any variation to these conditions and any representations about our Goods or Services shall have no effect unless expressly agreed in writing and signed by us. You acknowledge that you have not relied on any statement, promise or representation made or given by us or on our behalf which is not set out in these terms and conditions.
- 1.4 All samples, drawings, descriptive matter, specifications and advertising issued or exhibited by us are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. Any such material issued shall not constitute an offer to you nor shall they form part of these terms and conditions. If a sample of Goods is provided to you for your inspection, such sample is provided solely to enable you to judge for yourself the quality of the bulk and not so as to constitute a sale by sample. You shall take the Goods at your own risk as to their correspondence with the said sample and subject to the normal variation between the bulk and sample accepted by the trade.

2. DELIVERY OF GOODS

- 2.1 We shall deliver the Goods to the location set out in your order or such other location as we agree in writing (**Delivery Location**) at any time after the delivery date notified to you.
- 2.2 Where the Goods are to be exported to you, we shall (unless we agree otherwise) deliver them EXW (Incoterms 2010) and where we agree to arrange and/or pay for transport and insurance we shall do so as your agent and you shall be liable to us for all costs of transport and insurance together with all applicable taxes, duties and levies (including customs charges).

- 2.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 2.4 Any dates quoted for delivery of the Goods are approximate only and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by an event beyond our reasonable control (including for the avoidance of doubt a failure of our sub-contractors or suppliers) or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 2.5 We shall not be liable for any non-delivery of Goods (even if caused by our negligence) unless you give written notice to us of the non-delivery within 2 days of the date when the Goods would in the ordinary course of events have been received. Our liability for non-delivery of the Goods shall be limited to (at our sole discretion) replacing the Goods within a reasonable time or issuing a credit note at the pro rata contract rate against any invoice raised for such Goods.
- 2.6 If for any reason you fail to accept delivery of any of the Goods or we are unable to deliver the Goods on time because you have not provided appropriate instructions, documents, licences or authorisations, risk in the Goods shall pass to you (including for loss or damage howsoever caused), the Goods shall be deemed to have been delivered and we may store the Goods until delivery, whereupon you shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 2.7 If 24 hours (or such other period as we consider reasonable in the circumstances) after the Goods are ready for delivery you have not accepted or taken delivery of them and we have provided you with prior notice of the delivery date, we may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to you for any excess over the price of the Goods or charge you for any shortfall below the price of the Goods.
- 2.8 Subject to clause 2.9, you shall not be entitled to reject the Goods if we deliver up to and including 5 per cent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the relevant invoice on receipt of your notice that the wrong quantity of Goods was delivered provided that such notice is received by us within 2 Working Days (any day excluding Saturdays, Sundays and public holidays in England) of delivery.
- 2.9 Where the Goods include poultry, it is impossible for us to guarantee delivery quantities precisely and the permitted variation pursuant to clause 2.8 shall be 10 per cent. Where a delivery shortfall exceeds 10 per cent of the quantity of poultry ordered we shall be entitled to make a further delivery to you within 7 days to reduce the shortfall to 10 per cent or less.

3. INSTRUCTIONS

- 3.1 You shall only use the Goods in accordance with (and under the optimum conditions specified in) any instructions supplied by us or the manufacturer of the Goods and where there is a conflict between our instructions and those of the relevant manufacturer you shall not use the Goods without obtaining written clarification from us.

4. QUALITY OF GOODS AND SERVICES

- 4.1 Provided that the Price has been paid in full in cleared funds on or before the due date for payment, we warrant that on delivery and for a period of 12 months from the date of delivery (or such shorter period of warranty offered by the relevant manufacturer) (**Warranty Period**), any Goods (excluding poultry) will:
- (a) conform in all material respects with their description and any specification agreed by us in writing; and
 - (b) be free from material defects in design, material and workmanship.

For the avoidance of doubt, we shall not be deemed to know the particular purposes for which you intend to use the Goods unless such purposes are acknowledged and agreed by us in writing.

- 4.2 Where the Goods are to be exported to you, you or your agents shall test and inspect the Goods at our premises before their shipment.
- 4.3 Subject to clause 4.4, if:
- (a) you give us written notice during the Warranty Period within 3 Working Days after your discovery of the defect (or where the defect was apparent on reasonable inspection, within 3 Working Days after delivery if earlier or immediately following any inspection pursuant to clause 4.2) that some or all of the Goods do not comply with the warranty set out in clause 4.1;
 - (b) we are given a reasonable opportunity of examining such Goods (which at our sole discretion may be limited to examination of photographs provided always that such photographs provide reasonable detail of the defects alleged to be present in the Goods); and
 - (c) (if requested by us) you return such Goods to our place of business at our cost,

we shall, at our sole option, repair or replace the defective Goods (or where relevant, repair or replace defective parts of the Goods) or refund the price of the defective Goods in full.

- 4.4 We shall not be liable for the Goods' failure to comply with the warranty in clause 4.1 if:
- (a) in the case of exports, the relevant defect results from damage during transit or would have been apparent on inspection and you have failed to arrange an inspection in accordance with clause 4.2;
 - (b) you make any further use of such Goods after giving notice in accordance with clause 4.3;
 - (c) the defect arises because you failed to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - (d) you alter or repair such Goods or attach them to any devices or accessories (other than those distributed or officially recommended by us) without our written consent or you operate them with an incorrect electricity supply voltage, contaminated water supply or unsuitable chemicals;
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, poor husbandry, use or application of the Goods after any stipulated expiry date, abnormal storage or working conditions; or
 - (f) the Goods differ from their description as a result of changes made to ensure they comply with any applicable statutory or regulatory requirements.
- 4.5 Except as provided in this clause 4, we shall have no liability to you in respect of the Goods' failure to comply with the warranty set out in clause 4.1. For the avoidance of doubt, we shall have no liability to you in respect of the installation costs of replacement Goods or parts thereof nor in respect of repairs to Goods carried out without our prior written consent.
- 4.6 We shall have the right to make any changes to the Goods or 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 Goods or Services.
- 4.7 We warrant that any Services will be provided to you in accordance with the relevant specification (if any) in all material respects and using reasonable care and skill. The sole remedy for a breach of this warranty shall be that we will (at our sole discretion) endeavour to rectify any defect in the delivery of the Services or refund to you the Price of the Services (or the Price of the defective part thereof) provided that you notify us of such breach within 3 months of becoming aware of it (or if earlier, within 3 months of when you should reasonably have become aware of it).
- 4.8 Any performance dates specified for the provision of Services shall be estimates only and shall be varied to take account of any changes in the Services requested by you,

your failure to perform any obligations set out in these terms and conditions or any circumstances beyond our control.

- 4.9 Except as set out in these terms and conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from any contract between us in respect of the supply of Goods or Services. For the avoidance of doubt, we offer no warranty that Goods sold by us conform to industry norms or other non-statutory guidelines (including any relevant breed management guidelines) nor do we warrant the manner in which any animals will use the equipment sold by us.

Terms applicable only to poultry

- 4.10 Clauses 4.11 to 4.16 shall apply only where the Goods are or include poultry.
- 4.11 After acceptance of your order, you or a suitably qualified veterinary surgeon may inspect any poultry which has been allocated to you for the purpose of determining their health at any time before delivery, during business hours and by prior appointment and subject always to your compliance with our biosecurity policy (available on request).
- 4.12 If we are satisfied (following our inspection if required) that any poultry sold to you died or suffered injury in transit to your premises and you notify us in writing not later than 24 hours after the time you receive the poultry, we will (at our sole discretion) either credit you with the invoice price of the dead or injured poultry or replace them with poultry of a similar age as soon as practicable and this shall be the sole remedy in the event of such death or injury.
- 4.13 We will carry out such vaccinations as we reasonably consider to be appropriate using accepted practices and techniques and appropriate vaccines and serums. We will at your cost carry out additional vaccinations against any such diseases as you reasonably request. You acknowledge that no vaccination programme can be guaranteed to be completely effective and that all vaccinations carried out by us are subject to the exclusions and limitations of liability at clause 9.
- 4.14 It is difficult to determine the effects of beak trimming on poultry until they are more fully grown and any loss or damage whatsoever arising from sharp or irregularly-trimmed beaks is subject to the exclusions and limitations of liability at clause 9.
- 4.15 Save in respect of sex guarantee and as set out at clause 4.12 above, we make no representation and give no warranty as to the health and fitness of any poultry sold to you and in particular as to:

- (a) freedom from diseases and infections (including without limitation Salmonella and Marek's Disease);
- (b) their potential in terms of laying any particular quantity or quality of eggs;
- (c) body weight; or
- (d) body weight evenness of the flock.

4.16 **Salmonella**

4.16.1 All poultry we supply will have been tested as required under the Salmonella Zoonoses Order 1989 or any replacement or amendment thereof and the results of such tests will be made available on your request.

4.16.2 You shall be entitled to test the poultry for Salmonella on delivery provided that swabs are taken from the poultry as they are unloaded from the delivery vehicle in the presence of our representative.

4.16.3 In the event that such swabs are positive and any of the poultry are slaughtered by order of the Department for Environment Food and Rural Affairs or any other applicable Government department (**Defra**) the following provisions shall apply:

- (a) you shall assign to us your right to receive compensation from Defra and you shall procure the agreement of Defra to make any compensation payment to us;
- (b) the invoice in respect of the slaughtered poultry shall remain due and payable until you have complied with your obligations under clause 4.16(a) above at which time we shall issue to you a credit note for the amount of the invoice which relates to the slaughtered poultry;
- (c) you shall at your own expense apply to Defra for compensation and will take all steps necessary and use all reasonable endeavours to obtain compensation as soon as reasonably practicable;
- (d) in conducting any discussions or negotiations with Defra or in prosecuting any appeal we shall both cooperate fully with each other in sharing all relevant information in respect of such discussions, negotiations or appeal, allow each other to attend and participate in all relevant meetings (including with counsel) and you shall at all times have due regard to our reasonable requirements; and
- (e) if we request that you appeal against the amount of compensation awarded then the appeal shall be in your name but at our expense and we shall have full conduct of all appeal proceedings and you shall prosecute such appeal diligently and in good faith.

4.16.4 The exclusions and limitations set out at clause 9 shall apply to any poultry accepted by you for which the swabs referred to at clause 4.16.2 have tested positive for Salmonella.

5. OWNERSHIP AND RISK

- 5.1 Subject to clause 2.2 the Goods are at your risk from the time of delivery but ownership of the Goods shall not pass to you until we have received in full (in cleared funds) all sums due to us in respect of the Goods and all other sums which are or which become due from you to us on any account.
- 5.2 Until ownership of the Goods has passed to you, you shall hold the Goods on a fiduciary basis as our bailee, store the Goods separately from all other goods in such a way that they remain readily identifiable as our property, not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods and maintain the Goods in satisfactory condition and keep them insured on our behalf for their full price against all risks to our reasonable satisfaction. On request you shall produce the policy of insurance to us.
- 5.3 Where you are a distributor, you may resell the Goods before ownership has passed to you provided that any sale shall be effected in the ordinary course of your business at full market value.
- 5.4 Your right to possession of the Goods shall terminate and we shall be entitled immediately to recover the Goods if you are (or are deemed to be) insolvent, bankrupt, or suffer an event analogous thereto or are otherwise unable to pay your debts or you encumber or in any way charge any of the Goods or you do not pay the Price to us in accordance with clause 7.5.
- 5.5 We shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed to you.
- 5.6 You hereby grant us, our agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where your right to possession has terminated, to recover them.
- 5.7 Where we are unable to determine whether any Goods are the goods in respect of which your right to possession has terminated, you shall be deemed to have sold all goods of the kind sold by us to you in the order in which they were invoiced to you.
- 5.8 On termination of any contract, howsoever caused, our rights contained in this clause 5 shall remain in effect.

6. CUSTOMER'S OBLIGATIONS

- 6.1 You shall:

- (a) ensure that the terms of any order submitted by you are complete and accurate;
- (b) where the Goods are to be used outside of the United Kingdom, provide us with full details of the electricity supply (including voltage and alternating current frequency) in the country of intended use;
- (c) co-operate with us in all matters relating to the provision of Goods and Services;
- (d) provide us, our employees, agents, consultants and subcontractors, with access to your premises and other facilities as reasonably required by us to provide the Services;
- (e) provide us with such information as we may reasonably require to supply the Goods or Services, and ensure that such information is accurate in all material respects; and
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start.

7. CHARGES AND PAYMENT

- 7.1 The price for any Goods or Services supplied to you (**Price**) shall be the price set out on our confirmation of order (or in the absence of such confirmation, as set out on our written quotation). At our sole discretion and where confirmed by us in writing, we may offer a prompt payment discount applicable only when full payment of the Price is received by us within the time period indicated. The Price is exclusive of Value Added Tax (**VAT**).
- 7.2 Where we make the goods available for your collection and you are exporting the Goods you will be liable for any applicable VAT unless you provide proof of export to the satisfaction of HM Revenue & Customs.
- 7.3 We reserve the right to increase the price of the Goods, by giving notice to you at any time before delivery, to reflect any increase in the cost of the Goods to us that is due to:
- (a) any factor beyond our control (including foreign exchange fluctuations, increases in taxes and duties, and increases in the costs of poultry, vaccines, stock, labour, materials and other manufacturing costs);
 - (b) in the case of poultry, the cost of any vaccines or medicines which we consider necessary (or which you reasonably request) to protect or treat any pullet during the growing period ;
 - (c) any request by you to change the delivery date(s), quantities or types of Goods ordered; or

- (d) any delay caused by any of your instructions in respect of the Goods or your failure to give us adequate or accurate information or instructions in respect of the Goods.

7.4 In accordance with industry practice we shall be entitled to increase or decrease the price of poultry set out in the order by 6.0 pence per each increase or decrease of £10.00 per tonne of feed. We shall notify you upon request of the current price per tonne of feed at any time after receipt of your order.

7.5 We shall be entitled to invoice for the Price at any time following delivery of Goods or completion of Services and (unless we agree credit terms) payment of the Price is due in full immediately on your receipt of our invoice. Time for payment shall be of the essence.

7.6 Where the Goods are to be exported to you and we have agreed to arrange for their transport, you shall (unless otherwise agreed in writing) pay us the Price (together with all other applicable charges pursuant to clause 2.2) in full in cleared funds within 2 days of us sending you an electronic copy of the relevant bill of lading and until such payment, we shall not release the bill of lading to you and if applicable, you shall pay any relevant additional costs as set out at clause 2.6 above. Where you collect the Goods from us, you shall pay us the Price together with all other applicable charges in full in cleared funds prior to collection.

7.7 Without limiting any other right or remedy we may have, if you fail to pay us the Price or any sum due then in addition to our other rights we may bring a claim for the Price and/or cancel any contract between us and/or suspend any other deliveries to you and/or claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

7.8 You shall pay all amounts due to us under any contract in full without any deduction or withholding except as required by law and you shall not be entitled to assert any credit, set-off or counterclaim against us in order to justify withholding payment of any such amount in whole or in part. We may, without limiting our other rights or remedies, set off any amount owing to us by you against any amount payable by us to you.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 The Goods and Services we provide may incorporate and represent material and valuable copyright, know-how, goodwill and other intellectual property rights owned by us (**IPR**). Nothing in this agreement shall constitute an assignment of any such IPR and you acknowledge that you have no rights in respect of the IPR.

9. LIMITATION OF LIABILITY

9.1 Nothing in these terms and conditions shall limit or exclude our liability for:

- (a) death or personal injury to humans caused by our negligence or the negligence of our 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; or
- (e) defective products under the Consumer Protection Act 1987.

9.2 Subject to clause 9.1:

- (a) any specific advice or recommendation we give to you or your employees or agents in respect of the storage, application, performance or use of the Goods which we do not confirm in writing is followed or acted upon entirely at your own risk and we shall have no liability whatsoever for any such advice or recommendation which is not so confirmed. Any such advice confirmed in writing is provided solely for your own use and we shall have no liability whatsoever to any third party for any loss arising as a result of or in connection with such advice;
- (b) any other advice (whether oral or written) we give to you or your employees or agents is solely our opinion which you may not rely on and we shall have no liability whatsoever for any such advice provided by us. For the avoidance of doubt we shall have no liability whatsoever in respect of any advice (whether oral or written) we give to you in relation to the quantity of equipment required for a particular quantity of birds and you acknowledge that you shall be responsible for ensuring compliance with any local industry or welfare codes that are applicable to you;
- (c) we shall under no circumstances whatsoever be liable to you, 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 any contract between us;
- (d) where the Goods are to be exported to you, you shall be responsible for ensuring that the Goods comply with applicable laws and regulations in your country or state (including without limitation health and safety and electrical safety legislation) and you shall indemnify and hold us harmless against any costs, losses, expenses or claims arising out of a failure of the Goods to comply with such laws and regulations;
- (e) we shall under no circumstances whatsoever be liable to you in respect of the administration of any vaccine pursuant to clause 4.13, its effect, or any other matter relative thereto;

- (f) we shall under no circumstances whatsoever be liable to you in respect of any loss which may occur directly or indirectly as a result of beak trimming of poultry carried out by us or our suppliers;
- (g) in the event that any swabs taken pursuant to clause 4.16.2 test positive for Salmonella and any of the relevant poultry are not slaughtered and are accepted by you we shall under no circumstances whatsoever be liable to you for any loss caused by your use of such poultry (including without limitation any contamination of other flocks eggs or feed on the laying site or elsewhere) and in particular such poultry are not guaranteed or warranted to be fit for any particular purpose whether or not made known to us; and
- (h) our total liability to you in respect of all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

9.3 Except as set out in these terms and conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from any contract between us.

9.4 You will employ all due care and diligence in the handling, storage, installation and (where relevant) further sale of the Goods. You shall indemnify us and keep us indemnified against all and any costs, losses, expenses and damages suffered by us arising from a claim made against us by any third party in connection with the Goods.

9.5 We shall maintain in force the following insurance policies:

- (a) a public liability insurance policy with a limit of at least £5,000,000 per incident; and
- (b) a product liability insurance policy with a limit of at least £5,000,000 per year.

Notwithstanding and without prejudice to any other provisions in these terms and conditions our entire aggregate liability to you in respect of any losses falling under the above categories shall be limited to the amounts set out above against the relevant category.

9.6 On termination of any contract, howsoever caused, the provisions set out in this clause 9 shall remain in effect.

10. TERMINATION

10.1 Without limiting our other rights or remedies, we may terminate any contract with immediate effect by giving written notice to you if:

- (a) you commit a material breach of your obligations under these terms and conditions and (if such breach is remediable) fail to remedy that breach within 30 days after receipt of notice in writing of the breach;
- (b) you do not allow us to deliver the Goods or provide the Services to you within 6 months of the estimated delivery date agreed with you;
- (c) you are (or are deemed to be or we reasonably believe you are about to become) insolvent, bankrupt, or suffer an event analogous thereto or are otherwise unable to pay your debts; and
- (d) you (being an individual) die or, by reason of illness or incapacity (whether mental or physical), are incapable of managing your own affairs or you become a patient under any mental health legislation.

10.2 Subject to clause 10.3 below, if you are a consumer within the European Union and you place an order from our website or by telephone, email or mail order and the Goods are delivered or are to be delivered to a country within the European Union, you have additional rights under the Distance Selling Regulations and may cancel your order at any time until the expiry of 7 Working Days starting from the day after you receive the Goods whereupon the contract shall terminate. You must provide us with written notice of cancellation either by post or by email to info@potterspoultry.co.uk. Unless we agree otherwise, you will be responsible for returning the Goods to us at your cost. If we agree to collect the Goods, we will do so at your cost and will deduct the cost of return from any refund due to you. We will refund the cost of the original delivery to you.

10.3 If you are a consumer and we supply Goods to you made to your specification or personalised in any way, you will not have any cancellation rights under the Distance Selling Regulations and the provisions of clause 10.4 will apply to the relevant contract.

10.4 Save as provided in clause 10.2 above, you shall not terminate any contract without our prior written consent whereupon the provisions of clause 11.1 will apply.

11. CONSEQUENCES OF TERMINATION

11.1 On termination of any contract:

- (a) you shall immediately pay to us all of your outstanding unpaid invoices and interest and, in respect of Goods or Services supplied but for which no invoice has yet been submitted, we shall submit an invoice, which you shall pay immediately on receipt;

- (b) our accrued rights and remedies 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;
- (c) you shall indemnify us in full against all losses (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses we incur as a result of such termination (including for the avoidance of doubt, the costs of destruction of poultry where we are unable to sell such poultry to a third party within the earlier of 4 weeks after termination and the poultry reaching an age of 16 weeks and the additional costs of feeding and vaccinating such poultry prior to destruction or sale to a third party); and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

12. GENERAL

- 12.1 We shall not be liable to you as a result of any delay or failure to perform our obligations under any contract as a result of any event beyond our reasonable control including (without limitation) customs delays, strikes, lock-outs or other industrial disputes (whether involving our employees or the employees of any other relevant party), failure of a utility service, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, failure of suppliers or subcontractors, accident, fire, flood and epidemics.
- 12.2 We may assign or sub-contract all or any of our rights or obligations under these terms and conditions or any part of them to any person, firm or company. You shall not be entitled to assign your rights or obligations under these terms and conditions without our prior written consent.
- 12.3 Failure or delay by us in enforcing or partially enforcing any provision of these terms and conditions shall not be construed as a waiver of any of our rights under these terms and conditions. Any waiver by us of any breach of, or any default under, any provision of these terms and conditions by you shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of these terms and conditions.
- 12.4 Unless specifically provided otherwise, rights arising under these terms and conditions are cumulative and do not exclude rights provided by law.
- 12.5 If any provision of these terms and conditions is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed

severable and the remaining provisions of these terms and conditions and the remainder of such provision shall continue in full force and effect.

- 12.6 Nothing in these terms and conditions is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between us, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 12.7 No provision of these terms and conditions shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to them.
- 12.8 You acknowledge and agree that details of your name and address may be submitted to a credit reference agency and personal data will be processed by us and on our behalf.
- 12.9 These terms and conditions and any dispute or claim arising out of or in connection with them or their subject matter or formation (including but not limited to any claim for an indemnity or any tortious or other non-contractual disputes or claims) shall be governed by and construed solely in accordance with English law, and save as set out at clause 12.10 below, the courts of England and Wales shall have exclusive jurisdiction to hear and decide any such dispute or claim.
- 12.10 At our option any disputes arising out of or in connection with this agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English.