

J.P. Film and Television Services Limited

Terms & Conditions of Business

The Customer's attention is particularly drawn to the provisions of clause 8 and clause 9.

1. INTERPRETATION

1.1 **Definitions.** In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Charges: the charges for the Services and any Goods as set out in the Specification.

Company: J.P. Film and Television Services Limited registered under company number 01299404, whose registered office is at Unit 3, Matrix Park, Coronation Road, London NW10 7PH.

Conditions: these terms and conditions as amended from time to time in accordance with clause 13.7.

Contract: the contract between the Company and the Customer for the provision of the Services and the sale of any Goods in accordance with these Conditions.

Customer: the person who purchases the Services and any Goods from the Company.

Equipment: the equipment to be supplied as part of the Services as described in the Specification.

Goods: any goods which the Customer has agreed to purchase from the Company with the Services as described in the Specification.

Order: the Customer's order for the Services and any Goods, whether verbally or in writing or the Customer's written acceptance of the Company's quotation, as the case may be.

Period: the period for which the Services will be provided as described in the Specification.

Services: the services described in the Specification.

Site: the site at which the Services are to be provided and any Goods are to be delivered as described in the Specification.

Specification: the sheet attached hereto describing, among other things, the Services, the Site, the Goods, the Charges and the Period.

Technician: a person supplied by the Company as part of the Services, including any replacement of the same, and/or additional persons, supplied from time to time by the Company.

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

2. **BASIS OF CONTRACT**

- 2.1 The Order constitutes an offer by the Customer to purchase the Services and any Goods in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Company issues written acceptance of the Order at which point and on which date the Contract shall come into existence.
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Company which is not set out in the Contract.
- 2.4 Any illustrations, descriptive matter or advertising issued by the Company, and any descriptions or illustrations contained on its website, are issued or published for the sole purpose of giving an approximate idea of the services and goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by the Company shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.

3. SERVICES

- 3.1 The Company shall provide the Services to the Customer at the Site during the Period and shall deliver any Goods to the Site.
- 3.2 The Services are provided solely for the use of the Customer for the purpose set out in the Specification. In particular, the Equipment may not be lent or otherwise made available to or, shared with, or used by any other person in any way whatsoever, and/or used for any other purpose, without the express written approval of the Company. Any breach of this clause will, without prejudice to any other right that the Company may have, entitle the Company to increase the Charges as referred to in clause 4.1.
- 3.3 The Company shall have the right to make any changes to the Services or the Goods which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services or the Goods, and the Company shall notify the Customer in any such event.

4. CHARGES

- 4.1 The Customer shall pay the Charges to the Company. The Company will be entitled to increase the Charges, at its then prevailing rate, should the Company be required to provide the Services for any period exceeding the Period and/or if the Customer shall do any of the things referred to in clause 3.2.
- 4.2 The Company is entitled to submit an invoice, or invoices, for the Charges either during, or at the end of, the Period, as it thinks fit. Invoices are payable in full in cleared funds within 30 days of the date of the invoice, time of payment to be of the essence.
- 4.3 Unless the Company has agreed otherwise in writing the Charges shall be paid in Pounds Sterling and shall be made by direct transfer of funds to such bank account as the Company shall notify to the Customer from time to time in writing.
- 4.4 Unless otherwise specified, the Charges are exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Customer at the rate and in the manner from time to time prescribed by law.
- 4.5 All amounts due by the Customer shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

- 4.6 If the Customer fails to make any payment due to the Company by the due date for payment, then, without limiting the Company's remedies under clause 10, the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Lloyds Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 4.7 The Company shall be entitled to exercise a lien over any goods, chattels or otherwise which belong to the Customer which are in the Company's possession or control pending the full settlement of all amounts owing by the Customer to it pursuant to these Terms.

5. COMMENCEMENT OF SERVICES AND DELIVERY

- 5.1 Unless the Specification states otherwise the Services will be provided at, and any Goods delivered to, the Site, by the Company. The Company will use all reasonable endeavours to begin the Services and deliver any Goods, at the date and time stated in the Specification.
- 5.2 The Customer acknowledges that the Technician is employed or engaged, as the case may be, by the Company and shall only accept instructions and directions from the Company and not from the Customer or any other person. The Company acknowledges that (without prejudice to the Company's obligations under clause 7.1(d)) the Technician will have the sole right to provide the Services and to operate and control the Equipment and every part of it. The Technician is not authorised to carry out any other work for the Customer or any third party on any basis whatsoever without the Company's express written consent.
- 5.3 Before the commencement of the Services the Customer shall, at its expense, prepare the Site for the Services and the receipt of the Equipment (including by taking all necessary steps to ensure that the access is free, clear, unobstructed and suitable in every way for the Company to deliver the Equipment to the Site from the nearest public highway), and provide all requisite materials, facilities, access and suitable working conditions to enable the safe and expeditious commencement of the Services, including the installation of the Equipment, at the Site, all in the manner set out in the Specification and/or as the Technician shall otherwise require.

5.4 The Customer shall at its expense promptly give such assistance as the Technician shall require to begin the Services and to install the Equipment at the Site, to the Technician's satisfaction, and shall otherwise co-operate with the Technician and the Company at all times in all matters relating to the Services. Whilst the Technician may consider any request by the Company as to the location of the Equipment or any part of it, at the Site, the Technician's decision thereon shall be final. Once it has been installed, the Customer will not move nor attempt to move the Equipment or any part of it without the express consent of the Technician.

6. TITLE, RISK AND INSURANCE

6.1 For the avoidance of any doubt, the Equipment shall at all times remain the property of the Company, and the Customer shall have no right, title or interest in or to the Equipment. Risk in the Goods shall pass to the Customer on delivery. Title to the Goods shall not pass until the Company receives payment for them in fully cleared funds at which time title in them shall pass to the Customer.

6.2 The risk of loss, theft, damage or destruction of the Equipment shall pass to the Customer on delivery at the Site. The Equipment shall remain at the sole risk of the Customer during the Period and any further term during which the Equipment is at the Site. During such period, the Customer shall, at its own expense, obtain and maintain the following insurances:

- (a) insurance of the Equipment to a value of not less than its full replacement value (which shall be no less than £1,000,000) comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Company may from time to time nominate in writing;
- (b) insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as the Company may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and
- (c) insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as the Company may from time to time consider reasonably necessary and advise to the Customer.

6.3 The Customer shall give immediate written notice to the Company in the event of any loss, accident or damage to the Equipment.

- 6.4 If the Customer fails to effect or maintain any of the insurances required under this agreement, the Company shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.
- 6.5 The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Company and proof of premium payment to the Company to confirm the insurance arrangements.

7. CUSTOMER'S OBLIGATIONS

- 7.1 The Customer shall:
- (a) ensure that the terms of the Order are complete and accurate and take all necessary steps to ensure that the Services (including the Equipment) and any Goods meet its intended purpose;
 - (b) provide the Company with such information and materials as it may require in order to provide the Services and any Goods, and ensure that such information is accurate in all material respects;
 - (c) obtain and maintain all necessary licences, permissions and consents which may be required before the beginning of the Period;
 - (d) not touch, handle, operate, interfere with, obstruct, move, re position or relocate, or otherwise, the Equipment or any part of it, or attempt to do any of the foregoing, without the express consent of the Technician or the Company;
 - (e) take all necessary steps to ensure before the commencement of the Services that the Site and the access to and from the Site to the public highway is at all times, in every way, free from hazards, obstructions, dangers, or otherwise; and to ensure that the Site (and any part thereof which he uses from time to time) is in every respect a clean, safe, hazard free, comfortable and adequate working environment for the Technician such as to comply with all relevant health and safety laws, regulations and otherwise;

- (f) ensure that any equipment (whether belonging to or used by the Customer or any third party) which is plugged into or connected, rigged, or attached, in any way, to, any power supply/generator forming part of the Equipment:
 - (i) has a valid Electrical Installation Certificate or Electrical Installation Condition Report evidencing compliance with the then current version of BS 7671 Requirements for Electrical Installations (or such equivalent standard as replaces the same from time to time) and the Customer shall supply a copy of the same to the Technician on demand; and
 - (ii) has been inspected and tested in accordance with the IET's (or such equivalent body as replaces the same from time to time) then current version of the Code of Practice for In-service Inspection and testing of Electrical Equipment (or such equivalent code of practice as replaces the same from time to time) and the Customer shall supply satisfactory evidence thereof to the Technician on demand;
- (g) promptly report to the Technician any operating issues relating to the Services and/or the Equipment;
- (h) keep the Technician fully informed of all material matters relating to the Services and/or the Equipment;
- (i) permit the Company or its duly authorised representative to inspect the Equipment and/or supervise the provision of the Services at all times and for such purpose to enter upon the Site, and shall grant access and facilities for such inspection;
- (j) not, without the prior written consent of the Company, part with control of, sell or offer for sale, or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- (k) not use or allow to be used the Equipment for any unlawful purpose;
- (l) permit the Company to uninstall and/or remove the Equipment at the end of the Period or on earlier termination of the Contract, or if necessary allow the Company or its representatives access to the Site or any premises where the Equipment is located for the purpose of removing the Equipment; and
- (m) not do or permit to be done anything which could invalidate the insurances referred to in clause 6.

7.2 The Customer acknowledges that the Company shall not be responsible for any failure or interruption in the Services and/or loss of or damage to the Equipment (or any part of it) arising out of or in connection with:

- (a) any failure, failure to operate, interruption, breakdown, defect, or otherwise, of any equipment (whether belonging to or used by the Customer or any third party) plugged into, connected or rigged, or attached, to, the Equipment (or any part of it), in any way; and/or
- (b) any negligence, misuse or handling of the Equipment (or any part of it), or otherwise, of, by, or caused by, the Customer or its officers, employees, agents and contractors, and

the Customer undertakes to fully indemnify and hold harmless and keep fully indemnified and held harmless the Company on demand against the same, and against all losses, liabilities, claims, actions, demands, damages, costs, fees, penalties or expenses of whatever nature arising out of or in connection with the above and/or any failure by the Customer to comply with these Conditions.

7.3 If the Company'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**):

- (a) the Company shall without limiting its other rights or remedies have the right to suspend performance of the Services any delivery of any Goods until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
- (b) the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this clause 7.3; and
- (c) the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer Default.

8. WARRANTY THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

8.1 Whilst the Company warrants that it has maintained and serviced the Equipment in accordance with the relevant manufacturer's guidelines no warranty is given that the Equipment's operation will be error free or without interruption and no other warranty is given in relation thereto or in connection therewith. Except as provided in clause 8.7, the Company shall have no liability in respect of any failure to comply with the above warranty.

- 8.2 The Company warrants that on delivery the Goods shall:
- (a) conform in all material respects with their description; and
 - (b) be free from material defects in design, material and workmanship.
- 8.3 Subject to clause 8.4, if:
- (a) the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 8.2;
 - (b) the Company is given a reasonable opportunity to examine such Goods; and
 - (c) the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Customer's cost,
- the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 8.4 The Company shall not be liable for the Goods' failure to comply with the warranty in clause 8.2 if:
- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 8.3;
 - (b) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
 - (c) the Customer alters or repairs such Goods without the written consent of the Company;
 - (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - (e) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 8.5 Except as provided in this clause 8, the Company shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 8.2.
- 8.6 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Company under clause 8.3.

8.7 If the Equipment becomes defective so as to (in the Company's sole opinion) materially interfere with the provision of the Services, the Company's sole obligation will be, at its entire discretion, to, either:

- (a) replace the relevant defective part, or, as it thinks fit, the Equipment, as soon as reasonably practicable; or
- (b) use its reasonable endeavours to repair the same, at the Site, as soon as reasonably practicable,

provided that in either case:

- (i) the Customer notifies the Technician of the defect immediately that it becomes aware of the same;
- (ii) the defect did not materialise as a result of the Customer's breach of these Conditions;
- (iii) the defect did not arise out of any information or any other assistance supplied or furnished by the Customer or on its behalf; and
- (iv) the defect is deemed in its sole discretion by the Company to be directly attributable to operator error on the part of the Technician or defective material, workmanship or design.

8.8 Any repairs that the Company carries out, other than those that it is obliged to carry out as referred to above, will be at the Customer's cost.

8.9 Notwithstanding that its sole obligation in respect of defects in the Equipment is as set out in clause 8.7 (a defect of the kind referred to in clause 8.7 to be known as a **Defect**), the Company may at its sole discretion, however without being obliged to do so, abate the Transmission Day Charge (as defined below) by the Appropriate Percentage (as defined below), if the relevant Defect occurs on a Transmission Day (as defined below).

In this clause:

- (a) **Appropriate Percentage** means the Total Downtime expressed as a percentage of the Total Transmission (as defined below);
- (b) **Total Downtime** means the number of hours (rounded up to the nearest whole hour) during which the provision of the Services on the relevant Transmission Day is in the Company's opinion materially affected by the relevant Defect. In case of dispute the Company's determination as to the Total Downtime shall be final;

- (c) **Total Transmission** means the total number of hours (rounded up to the nearest whole hour) that the Services are to be provided on the relevant Transmission Day. In case of dispute the Company's determination as to the Total Transmission shall be final;
- (d) **Transmission Day** means a day referred to in the Specification as a transmission day (abbreviated to "TX"); and
- (e) **Transmission Day Charge** means the amount of the Charges relating to the provision of the Services on the relevant Transmission Day.

8.10 Subject always to the provisions of clause 9.1 and clause 9.4, the Company shall only be liable for any damage to any equipment belonging to the Customer and/or any third party (**Customer Equipment**) which is plugged into, or connected, rigged, or attached, to, (**Attached**) any power supply/generator forming part of the Equipment (**Power Supply**), to the extent that:

- (a) the Company has expressly authorised that the same be Attached; and
- (b) the damage is directly caused by a failure or breakdown of the Power Supply; and
- (c) the failure or breakdown of the Power Supply arises as a result of the Company's default.

The Company will not be liable for any damage, breakdown, fault, loss, or otherwise, (**Damage**) to any Customer Equipment, of any nature, arising under any other circumstances, and/or notwithstanding the above, the Company will not be liable for any Damage to any Customer Equipment if such damage would not have occurred had the Customer complied with its obligations under these Conditions (including without limitation clause 7.1 (f)).

8.11 This clause 8 shall survive termination of the Contract.

9. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

9.1 Without prejudice to clause 9.2, the Company's maximum aggregate liability for a breach of these Terms (including any liability for the acts or omissions of its employees, agents and subcontractors (including the Technician)), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall in no circumstances exceed the amount of the Charges.

9.2 Nothing in these Conditions shall limit or exclude the Company's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) any other liability that cannot be excluded by law.

9.3 These Conditions set forth the full extent of the Company's obligations and liabilities in respect of the Services and any Goods. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on the Company except as specifically stated in these Conditions. Any condition, warranty or other term concerning the Services and/or any Goods which might otherwise be implied into or incorporated within this agreement, whether by statute, common law or otherwise, is expressly excluded.

9.4 Without prejudice to clause 9.2, the Company shall not be liable under this agreement for any:

- (a) loss of profit; or
- (b) loss of revenue; or
- (c) loss of business; or
- (d) loss or corruption of data or information; or
- (e) special, indirect or consequential loss or damage,

in each case, however caused, even if foreseeable.

9.5 This clause 9 shall survive termination of the Contract.

10. TERMINATION

10.1 Without affecting any other right or remedy available to it, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer fails to pay any amount due under these Conditions on the due date for payment;
- (b) the Customer commits a material breach of any other provision of these Conditions which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 3 days after being notified in writing to do so;
- (c) the Customer repeatedly breaches any of the provisions of these Conditions;
- (d) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (e) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer;
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Customer;
- (h) the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- (j) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Customer's assets and such attachment or process is not discharged within 7 days;
- (k) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.1 (d) to clause 10.1 (j) (inclusive); or

- (l) the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

11. CONSEQUENCES OF TERMINATION

11.1 Upon termination of the Contract, however caused:

- (a) the Company shall cease to provide the Services and further deliveries of any Goods and shall be entitled to uninstall and remove the Equipment and any Goods which have not been fully paid for and for this purpose may enter the Site or any premises at which the Equipment or the Goods are located. Until they have been recovered by the Company, the Customer shall be solely responsible for the safekeeping of the Equipment, and any Goods that have not been paid for; and
- (b) without prejudice to any other rights or remedies of the Company, the Customer shall pay to the Company on demand:
 - (i) all Charges and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 4.6;
 - (ii) any costs and expenses incurred by the Company in recovering the Equipment and/or in collecting any sums due under this agreement (including any storage, insurance, repair, transport, legal and remarketing costs).

11.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, 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.

11.3 Clauses which expressly or by implication survive termination shall continue in full force and effect.

12. FORCE MAJEURE

- 12.1 In these Terms **Force Majeure Event** means an event beyond the reasonable control of the Company including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 12.2 The Company shall not be liable to the Customer as a result of any delay or failure to perform its obligations under these Terms as a result of a Force Majeure Event.
- 12.3 If the Force Majeure Event prevents the Company from providing any of the Services for more than 3 days, the Company shall, without limiting its other rights or remedies, have the right to terminate the Contract immediately by giving written notice to the Customer.

13. GENERAL

13.1 Assignment and other dealings

- (a) The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of the Company, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

13.2 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, commercial courier, fax or e-mail.

- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13.3 **Severance**

- (a) 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.
- (b) If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

13.4 **Waiver.** A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy 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 its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

13.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

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

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