Terms and Conditions of Sale

The Customer's attention is drawn in particular to clause 11.

1. Validity and acceptance of these terms and conditions

1.1. **Charles Day (Steels) Limited** is a private limited company incorporated and registered in England and Wales with company number 01289020 whose registered office is at 6 Downgate Drive, Sheffield, UK, S4 8BT (**the Company**).

1.2. These terms and conditions (**these Terms**), together with the Quotation and the Order (both as defined below) constitute a binding legal agreement (**the Agreement**) between the Company and you or the legal entity that you represent (**the Customer**) for the provision of Goods (as defined below).

2. Definitions and interpretation

2.1. In these Terms, the following definitions and rules of interpretation shall apply:

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

Free Issue Material: has the meaning set out in clause 5.3.

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

Losses: all liabilities, damages, losses (including loss of profits, loss of business, loss of reputation, loss of savings and loss of opportunity), fines, expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and reasonable professional costs and expenses).

Order: the Customer's order for the supply of Goods, as set out in the Customer's purchase order form or the Customer's written acceptance of the Quotation, as the case may be.

Quotation: the letter or other written document issued to the Customer by the Company setting out the Company's quotation for provision of the Goods to the Customer.

Specification: any specification for the Goods, including any related designs, plans and drawings, that is provided to the Company by the Customer.

Terms: these terms and conditions.

2.2. **Interpretation:**

2.2.1. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

2.2.2. A reference to legislation or a legislative provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that legislation or legislative provision.

2.2.3. Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

2.2.4. A reference to **writing** or **written** includes email but excludes fax.

3. Basis of the Agreement

3.1. In response to an enquiry from the Customer the Company may issue a Quotation which includes a Specification for the Goods which are the subject of the Quotation and which, subject to clause 3.2 below, shall be effective from its date of issue for the period of time set out in the Quotation. If no period of time is set out in the Quotation, it shall be effective for 24 hours from its date of issue (or such other period as the Company may agree in writing). If a Quotation is not accepted by the Customer within the applicable period of time, the Quotation shall automatically lapse and be of no effect.

3.2. The Company may, by giving written notice to the Customer at any time up to 2 Business Days before delivery of the Goods, increase the price of the Goods to reflect any increase in the cost of providing the Goods that is due to:

3.2.1. any factor beyond the Company's control (including without limitation foreign exchange fluctuations, increases in taxes and duties or increases in the prices that the Company has to pay its suppliers for the materials which make up the Goods or the costs to the Company of producing the Goods);

3.2.2. any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

3.2.3. any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate or accurate information or instructions.

3.3. Quotations issued by the Company and Orders issued by the Customer are not legally binding upon either party. If the Customer wishes to amend the Specification provided with the Quotation at any time before placing an Order, or at any time before the Company accepts the Order in accordance with clause 3.4 below, the Customer must notify the Company of the amendments it wishes to make and the Company will issue a fresh Quotation to the Customer which includes a Specification which has been amended to include the Customer’s requested amendments. If this process is not followed, any amendments made to the Specification after the Quotation has been provided to the Customer, whether such amendments are made by the Customer or otherwise, shall not have effect and shall not form part of the Agreement.

3.4. An Agreement shall take effect and become legally binding on the parties only when the Company issues written acceptance of the Order (including the Specification in the form provided by the Company with the Quotation) or acts in any manner which is consistent with fulfilling that Order (including the Specification in the form provided by the Company with the Quotation).

3.5. If the Customer wishes to modify any of the Goods or the Specification for those Goods following commencement of the Agreement, such modification can only take place if the parties are able

to agree in writing any adjustment to the sums payable to the Company as a result of such modification. Any such modification shall also be subject to clause 14.9.

3.6. Any samples, drawings, descriptive matter or advertising issued by the Company and any descriptions of the Goods contained in the Company's catalogues, brochures or marketing materials are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Agreement nor have any contractual force.

3.7. These Terms apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3.8. The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any document of the Company that is inconsistent with these Terms.

3.9. Where any Goods are to be supplied from the stock held by the Company, such supply is subject to availability of such stock at the date of delivery.

3.10. Cancellation of an Order (in whole or in part) will only be accepted by the Company in writing and on condition that all costs and expenses incurred by the Company up to the date of cancellation (including but not limited to material costs), together with and all other losses or damages incurred by the Company by reason of such cancellation will be reimbursed by the Customer to the Company forthwith.

4. Supply of Goods

4.1. The Goods shall be provided to the Customer in accordance with the Specification applicable to those Goods. Unless agreed otherwise in writing between the parties, the Customer shall provide the Specification to the Company and shall be fully and solely responsible for ensuring that the Specification and any other relevant information that the Customer provides to the Company in respect of the Goods (whether in writing or verbally) is accurate and complete and fully describes the Customer’s requirements.

4.2. To the extent that the Company manufactures (or appoints a third party to manufacture) the Goods in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Company against all Losses incurred by the Company as a result of any claim that the Company's use of the Specification infringes the intellectual property rights of any third party. This clause 4.2 shall survive termination of the Agreement.

4.3. The Company reserves the right to amend the Specification if required by any applicable law or regulatory requirement, and shall notify the Customer in any such event.

4.4. Where applicable, the Company will supply to the Customer such information as it receives from the manufacturer of the Goods regarding gauges, weights, chemical composition and analysis, quantities and sizes of the Goods. Any requirements as to gauges, weights, chemical composition and analysis, quantities and sizes of the Goods which are communicated by the Customer to the Company in writing will so far as possible be adhered to, but reasonable excess and deficiencies thereof (including but not limited to in accordance with applicable industrial standards and tolerances) shall be accepted by the Customer, which shall not be entitled to reject any Goods or to require replacement of any Goods on the ground that they are not precisely as specified.

4.5. Unless the parties specifically agree otherwise, any tests and test pieces required by the Customer in relation to the Goods will be subject to an additional charge.

4.6. Unless otherwise specifically requested by the Customer, tests of chemical composition shall be based only on the ladle analysis, which shall be final. Tests and inspections shall take place under the manufacturer's standard testing arrangements and such tests shall be final. All tests are subject to analytical tolerances.

5. Customer obligations

5.1. The Customer shall:

5.1.1. co-operate with the Company in all matters relating to the Goods; and

5.1.2. provide to the Company in a timely manner all documents, information, approvals, items and materials in any form (whether owned by the Customer or a third party) reasonably required by the Company in connection with the Goods and ensure that they are accurate and complete in all material respects.

5.2. It is the Customer's responsibility to ensure that the Specification and all other information, measurements, drawings or other documents it provides to the Company in relation to the Goods are complete and accurate, as the Company will supply the relevant Goods on the basis of such Specification, information, measurements, drawings or other documents. The Customer may be liable to pay additional sums to the Company if it does not provide information requested by the Company, or if such information is inaccurate or if the Customer changes its mind about its requirements.

5.3. Where the Customer provides any materials, components or other items to the Company to be used in the manufacture or provision of the Goods (**Free Issue Material**), the Customer shall remain fully responsible for ensuring that such Free Issue Material:

5.3.1. conforms in all material respects with the applicable Specification for the Goods;

5.3.2. is free from material defects in design, material and workmanship;

5.3.3. is of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

5.3.4. is fit for any purpose held out by the Customer.

6. Delivery of the Goods

6.1. The Company shall:

6.1.1. ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

6.1.2. ensure that each delivery of the Goods is accompanied by a delivery note correctly addressed to the Customer; and

6.1.3. deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**).

6.2. Any dates quoted for delivery of the Goods are approximate only and the time of delivery is not of the essence. The Company shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

6.3. No delay in delivery of the Goods shall entitle the Customer to damages or to reject any delivery or any further instalment or part of the Order or any other order from the Customer or to cancel or repudiate the Agreement or the Order.

6.4. Delivery shall be completed upon the completion of unloading the Goods at the Delivery Location.

6.5. If, for any reason, the Customer is unable to accept delivery of the Goods when the Company has notified the Customer that the Goods are ready for delivery, the Company may (at its option) arrange for storage of the Goods until delivery takes place and the Customer shall be liable to pay to the Company the reasonable costs (including insurance) of such storage. This provision is without prejudice to any other right which the Company may have in respect of the Customer's failure to take delivery of the Goods or to pay for them in accordance with the Agreement, when payment would have been due if the Goods had been delivered when ready for delivery.

6.6. The Company shall have performed the Agreement if it delivers quantities or weights of the Goods within 10% (over or under) of the quantities or weights of the Goods ordered by the Customer. Any discrepancy within 10% as aforesaid shall not entitle the Customer to reject any delivery or any further instalment of the Goods or any part of the Order or repudiate the Agreement.

6.7. Any discrepancy of more than 10% (over or under) in the quantities or weights of the Goods delivered to the Customer must be notified in writing to the Company within 3 Business Days from the date of delivery of the Goods.

7. Quality of the Goods

7.1. The Company warrants that the Goods supplied by the Company to the shall:

7.1.1. conform in all material respects with the applicable Specification;

7.1.2. be free from material defects in design, material and workmanship and shall remain so for 12 months after delivery;

7.1.3. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

7.1.4. be fit for any purpose held out by the Company in writing.

7.2. The Customer may reject any Goods delivered to it that do not comply with clause 7.1, provided that:

7.2.1. written notice of rejection is given to the Company:

7.2.1.1. in the case of a defect that is apparent on normal visual inspection, within 3 Business Days of delivery being completed in accordance with clause 6.4;

7.2.1.2. in the case of a latent defect, within 3 Business Days of the latent defect having become apparent; and

7.2.2. none of the events listed in clause 7.5 apply.

7.3. If the Customer fails to give notice of rejection in accordance with clause 7.2, it shall be deemed to have accepted the Goods.

7.4. Subject to clause 7.5, if:

7.4.1. the Customer gives written notice of rejection of Goods to the Company in accordance with clause 7.2; and

7.4.2. the Company is given a reasonable opportunity of examining such Goods,

the Company shall, at its option and to the extent that it agrees that such Goods do not comply with the warranty set out in clause 7.1, repair or replace the defective Goods (without charge to the Customer), or refund the price of the rejected Goods in full.

7.5. The Company shall not be liable for the Goods' failure to comply with the warranty set out in clause 7.1 if:

7.5.1. the Customer makes any further use of such Goods after giving a notice in accordance with clause 7.1;

7.5.2. 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 regarding the same;

7.5.3. the defect arises as a result of the Company following the Specification or any other information, measurements or other documents supplied to it by the Customer;

7.5.4. the defect arises as a result of the materials, components or other items provided by the Customer for use in the manufacture or provision of the Goods;

7.5.5. the Company provides the Goods to the Customer for the Customer to weld or fabricate into an item or product and the Customer identifies an issue with that item or product after welding or fabrication has begun;

7.5.6. the Customer or a third party alters, rectifies or repairs such Goods without the Company’s prior written consent;

7.5.7. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or

7.5.8. the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

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

7.7. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Agreement.

7.8. These Terms shall apply to any repaired or replacement Goods supplied by the Company.

7.9. Where the Customer requests the provision of a sample or samples of the Goods in advance of the Company delivering the full Order and the Company agrees in writing to provide such sample or samples to the Customer, the Customer acknowledges that the Goods supplied under the full Order may exhibit minor deviations from the sample Goods provided by the Company, including but not limited to variations in material finish, which may arise from inherent manufacturing processes or other factors outside the Company's reasonable control. The Company shall not be liable for such deviations provided that the Goods supplied under the full Order conform, in all material respects, to the Specification and/or such deviations are within any applicable industry tolerances. The Customer accepts that such minor deviations which do not affect the functionality or dimensions of the Goods shall not constitute a breach of this Agreement or failure to comply with the sample.

8. Title and risk

8.1. The risk in the goods shall pass to the Customer on completion of delivery to the Delivery Location.

8.2. Title to the Goods shall not pass to the Customer until the earlier of:

8.2.1. the Company receives payment in full (in cash or cleared funds) for the Goods; or

8.2.2. the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 8.4.

8.3. Until title to the Goods has passed to the Customer, the Customer shall:

8.3.1. store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;

8.3.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

8.3.3. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and

8.3.4. give the Company such information as the Company may reasonably require from time to time relating to the Goods.

8.4. Subject to clause 8.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Company receives payment for the Goods. However, if the Customer resells the Goods before that time:

8.4.1. it does so as principal and not as the Company's agent; and

8.4.2. title to the Goods shall pass from the Company to the Customer immediately before the time at which resale by the Customer occurs.

8.5. At any time before title to the Goods passes to the Customer, the Company may:

8.5.1. by notice in writing to the Customer, terminate the Customer's right under clause 8.4 to resell the Goods or use them in the ordinary course of its business; and

8.5.2. require the Customer to deliver up all Goods in its possession and control that have not been resold or irrevocably incorporated into another product, and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored, to recover them. The Customer shall procure entry to any such third party's premises if requested to do so by the Company.

9. Intellectual property rights

9.1. Where the Company amends drawings or designs in respect of the Goods at the Customer's request, the Company shall retain ownership of all confidential information and intellectual property rights arising from the amendments made by the Customer ("**Company Created IP**").

9.2. The Company shall grant to the Customer a non-exclusive, royalty-free licence to use such Company Created IP for the sole purpose of purchasing the Goods from the Company in accordance with the Agreement. For the avoidance of doubt, no licence is granted under the Agreement for the Customer to use the Company Created IP to purchase goods which are identical or similar to the Goods from a third party.

10. Price and payment

10.1. The price of the Goods shall be as set out in the Quotation and confirmed in the Order.

10.2. The price of the Goods excludes:

10.2.1. amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Company at the prevailing rate, subject to the receipt of a valid VAT invoice;

10.2.2. any other tax or duty relating to the manufacture, transportation, export, import, sale and/or delivery of the Goods (whether initially charged or payable by the Company or the Customer); and

10.2.3. any costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

10.3. The Company may invoice the Customer for provision of the Goods on or at any time after accepting the Customer's Order.

10.4. Unless the Company and the Customer have agreed credit terms or unless the Company expressly agrees otherwise in writing the Customer shall pay each invoice submitted by the Company, at the latest, by the day before the agreed delivery date for the relevant Goods.

10.5. Each payment by the Customer shall be made to a bank account nominated in writing by the Company and shall be paid in pounds sterling.

10.6. Where the Customer requests the provision of a sample or samples of the Goods in advance of the Company delivering the full Order, the Company may agree in writing to provide such sample or samples. Such agreement shall be subject to the following conditions:

10.6.1. payment for such sample(s) shall be due in advance of delivery, unless expressly agreed otherwise in writing by the Company;

10.6.2. should there be any delay in completing the remainder of the Order due to the acts or omissions of the Customer, the Company shall be entitled to invoice the Customer for the full value of the Order (including the costs of any materials) no later than 14 Business Days from the date on which the Company accepted the Order.

10.7. If the Customer fails to make any payment due to the Company under the Agreement by the due date for payment or exceeds its agreed credit limit:

10.7.1. the Customer shall pay interest on any overdue amount at the rate of 4% per annum above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount. This clause shall not apply to payments that the Customer disputes in good faith; and

10.7.2. the Company shall be entitled to suspend further deliveries of Goods under the applicable Order and/or under any other order until the outstanding sum has been paid in full and/or the sums owed by the Customer are brought within the agreed credit limit.

10.8. Without prejudice to the Company's rights under clause 0 below, the Company reserves the right, where genuine doubts arise as to a Customer's financial position, or, in the case of failure to pay for any Goods or exceeding the Customer's agreed credit limit, to suspend delivery of Goods or instalments of Goods without liability until payment in full has been made or until satisfactory security for payment has been provided by the Customer.

10.9. All amounts due under the Agreement 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).

11. Limitation of liability

11.1. The Customer agrees that the express obligations of and warranties given by the Company in these Terms are in lieu of and to the exclusion of any other warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise relating to any Goods supplied under or in connection with this Agreement including (without limitation) as to the condition, quality, performance, satisfactory quality or fitness for purpose of the Goods, or any part of them.

11.2. References to liability in this clause 11 include every kind of liability arising under or in connection with the Agreement, including liability in contract, tort (including negligence) or otherwise.

11.3. Neither party may benefit from the limitations and exclusions set out in this clause 11 in respect of any liability arising from its deliberate default.

11.4. Nothing in this clause 11 shall limit the Customer's payment obligations under the Agreement.

11.5. Nothing in the Agreement limits or excludes any liability for:

11.5.1. death or personal injury caused by negligence;

11.5.2. fraud or fraudulent misrepresentation; or

11.5.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979; or

11.5.4. any liability that cannot legally be limited or excluded.

11.6. Subject to clauses 11.3 and 11.5:

11.6.1. the Company shall not in any circumstances be liable for any loss of profits, loss of sales or business, loss of agreement or contracts, loss of use or corruption of software, data or information, or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and

11.6.2. the Company's total liability to the Customer (whether in contract, tort, including negligence or otherwise) arising under or in connection with the Agreement shall be limited to total value of the sums paid by the Customer under the Agreement.

11.7. Unless the parties expressly agree otherwise in writing, the Company shall have no responsibility or liability whatsoever:

11.7.1. for the performance, suitability or durability of any Goods or any materials or workmanship comprised therein to the extent that the same is manufactured in accordance with the Specification or any other information, measurements or other documents it provided to the Company by the Customer;

11.7.2. for any advice it provides or any views it offers or expresses to the Customer as to the suitability or otherwise of the Goods, or any process to which the Goods may be subject.

11.8. **Free Issue Material**

11.8.1. The Company shall have no responsibility or liability whatsoever in respect of any Free Issue Material provided by the Customer, however arising and even if resulting from any fault, negligence or mistake of the Company.

11.8.2. This includes but is not limited to any distortion, faults or defects which appear or develop or are caused by any work undertaken by the Company involving the use of Free Issue Material provided by the Customer. The Company gives no guarantee or warranty of any kind but, subject to the availability of capacity and facilities, it will use reasonable endeavours to correct any such distortions, faults or defects at the Customer's expense and risk.

11.8.3. For the avoidance of doubt, the Company shall not in any circumstances be required to provide any replacement materials for such Free Issue Material or be liable for any damages, compensation, costs, expenses, losses, or other liabilities whether direct or consequential in respect of such Free Issue Material (including the cost of replacing such Free Issue Material).

12. Termination

12.1. Without limiting its other rights or remedies, the Company may terminate the Agreement with immediate effect by giving written notice to the Customer if:

12.1.1. the Customer fails to pay any amount due under the Agreement on the due date for payment;

12.1.2. the Customer has failed to provide a letter of credit or guarantee, bill of exchange or other security required by the Company;

12.1.3. the Customer commits a material breach of any term of the Agreement and (if such a breach is remediable) fails to remedy that breach within 7 days of it being notified in writing to do so;

12.1.4. the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

12.1.5. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

12.1.6. the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Agreement is in jeopardy.

12.2. On termination of the Agreement for any reason the Customer shall immediately pay to the Company all of the Company's unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Company shall submit an invoice, which the Customer shall pay immediately on receipt.

12.3. Termination of the Agreement, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

12.4. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination of the Agreement shall remain in full force and effect.

13. Force Majeure

13.1. In the event of the performance of any obligations by the Company being prevented, delayed or any way interfered with by any act of God, fire, pandemic, inclement or exceptional weather conditions, industrial action (whether at the Company’s premises or elsewhere), hostilities, breakdowns, accidents, explosions, shortage of labour, materials, power or other supplies, late delivery or performance or non-delivery or non-performance by suppliers or sub-contractors, governmental order or intervention (whether or not having the force or the law) or any other cause whatever beyond the Company’s control or of an unexpected or exceptional nature the Company may suspend or treat as impossible the performance of any obligation to the Customer without liability for any loss.

14. General

14.1. **Assignment and other dealings.** The Company may at any time assign, transfer, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement. The Customer may not assign, transfer, subcontract or otherwise deal in any other manner with all or any of its rights or obligations under the Agreement without the Company's prior written consent.

14.2. **Entire agreement.** The Agreement constitutes the entire agreement between the parties. Each party acknowledges that in entering into the Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each party agrees that it has no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.

14.3. **Notices.**

14.3.1. Any notice given to a party under or in connection with the Agreement shall be in writing and shall be:

14.3.1.1. 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

14.3.1.2. sent by email to the email address notified by the other party.

14.3.2. Any notice shall be deemed to have been received:

14.3.2.1. if delivered by hand, at the time the notice is left at the proper address;

14.3.2.2. 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

14.3.2.3. if sent by email, at the time of transmission.

14.3.3. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

14.4. **Severance.** If any provision or part-provision of the 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. 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 Agreement.

14.5. **Entire agreement.** The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to the subject matter of the Agreement. Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently).

14.6. **Waiver.** A waiver of any right or remedy under the Agreement or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any

other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

14.7. **No partnership or agency.** Nothing in the Agreement 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.

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

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

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

14.11. **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 Agreement or its subject matter or formation (including non-contractual disputes or claims).