

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following definitions apply:

“the Contract” the sale agreement between the Supplier and the Customer;

“the Customer” any person (including sole traders, companies and partnerships) to whom a quotation, confirmation of order or contract is addressed, from whom a telephone order is received or who received the Goods;

“Force Majeure” means any event or sequence of events beyond a party’s reasonable control such as an act of God including, but not limited to, fire, flood, drought, earthquake, windstorm or other natural disaster; act of any sovereign including war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation; acts of terrorism; nationalisation, requisition, destruction or damage to property by or under the order of any government or public or local authority or imposition of government sanction embargo or similar action; civil emergency (whether an emergency be declared or not); radioactive contamination; pressure waves caused by aircraft travelling at sonic or supersonic speeds; law, judgment, order, decree, embargo, blockade, labour dispute including strike, lockout or boycott; interruption or failure of utility service including to electric power, gas, water or telephone service; failure of the transportation of any personnel equipment, machinery supply or material required by any essential personnel for performance of the agreement; and breach of contract by any essential personnel

“the Goods” any item product of whatsoever nature which the Supplier agrees to supply to the Customer as described in the Order;

“Insolvency Event” the happening in relation to any Customer of any of the matters listed in clause 14;

“Intellectual Property” means copyright, patents, rights in inventions, rights in confidential information, Know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing;

“the Order” means the Customer’s order for Goods as set out in the order form;

“the Supplier” Cofco International UK Limited of The Havens, Ransomes Europark, Ipswich, Suffolk, IP3 9SJ (company number **00165772** )

1.2 In these Conditions, unless the context otherwise requires:

- (a) a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);
- (b) any clause, schedule or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;
- (c) a reference to a 'party' means either the Supplier or the Customer and includes that party's personal representatives, successors and permitted assigns;
- (d) a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns
- (e) a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- (f) a reference to a gender includes each other gender;
- (g) words in the singular include the plural and vice versa;
- (h) any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- (i) a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (excluding email);
- (j) a reference to legislation is a reference to that legislation as in force at the date of the Contract; and
- (k) a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

## **2. APPLICATION OF THESE CONDITIONS**

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer.
- 2.2 No employee or agent of Supplier has the authority to:
  - (a) alter, vary or waive these conditions unless authorised by a Director of the Supplier; or
  - (b) make or give any representation or warranty.
- 2.3 The terms and conditions contained within the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.

Final

- 2.4 Whenever the Customer requests goods from the Supplier it shall be treated as a separate offer to purchase. Each order will be deemed to be a separate Contract subject to these conditions.
- 2.5 The Supplier shall notify the Customer as soon as practicable if they are unable to accept an order. An order may be withdrawn or amended by the Customer at any time before the Supplier accepts.
- 2.6 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and shall not be a binding obligation to supply any Goods until the Supplier confirms its acceptance, whether verbally or in writing.
- 2.7 Rejection by the Supplier of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.
- 2.8 The Supplier may carry out credit checks on the Customer and the Order may be conditional upon a satisfactory credit check.
- 2.9 Quotations provided by the Supplier are invitations to treat only.
- 2.10 The Customer agrees to inform the Supplier of any change to their business which may be relevant to the Order.

### **3. PRICE**

- 3.1 The price for the Goods shall be based on the quotation given to the Customer by the Supplier. If no quotation has been given the prices listed in the Supplier's current catalogue or price list shall apply to any contract, telephone order or confirmation order. The Supplier may withdraw any price quoted provided that such withdrawal occurs prior to the Contract for Goods being entered into.
- 3.2 The Prices are exclusive of VAT.
- 3.3 The Price of any variety Goods which become subject to the grant of breeders' rights under the Plant Variety and Seeds Act 1964 (as amended) will be adjusted to include the cost of any royalty payable to the owner of the right and if there is a change in the rate of royalty payable to the owner the Supplier's Price to the Customer shall be adjusted accordingly.

### **4. PAYMENT**

- 4.1 The Customer shall pay all invoices:
  - (a) in full without deduction or set-off, in cleared funds by the date specified on the Supplier's invoice provided to the Customer; and
  - (b) to the bank account nominated by the Supplier.
- 4.2 The Supplier reserves the right to require payment before delivery of the Goods.

Final

- 4.3 Time of payment is of the essence.
- 4.4 Where sums due under these Conditions are not paid in full by the due date the Supplier shall be entitled to:
- (a) cancel the contract and any other contract between the Supplier and the Customer or suspend further deliveries to the Customer;
  - (b) sell or otherwise dispose of any Goods whether appropriated to the contract or not;
  - (c) the Supplier may, without limiting its other rights, charge interest on such sums at 2% per month or part thereof on the amount outstanding until payment is made, the first such charge being on the day following the due date for payment and subsequent charges per month thereof. The Customer shall not be entitled to any reimbursement of such charges as a result of full payment being made part way through the month; and
  - (d) to sue for the price of the Goods even if title has passed to the Customer.

## **5. DELIVERY, AVAILABILITY AND INSPECTION**

- 5.1 Unless otherwise agreed, the Goods shall be delivered by the Supplier to the Customer's place of business. The Customer shall provide staff to enable the Goods to be offloaded and provide suitable access to the point of unloading. The Customer shall take delivery of the Goods within the time period set out in the Order.
- 5.2 Delivery shall be deemed to have taken place immediately upon the offloading of the Goods at their destination.
- 5.3 If the Supplier agrees to deliver the Goods at any other destination and if the Goods are required to be stored in a particular manner whether pursuant to statute, manufacturers instructions or otherwise, it shall be a condition of the contract that the Customer shall provide at the place to which the Goods are to be delivered, storage facilities complying with such requirements and shall make arrangements to ensure that the Suppliers delivery operative has access to such facilities at the time of actual deliver. The Supplier shall be entitled to treat failure to make due provision in accordance with the terms of this sub-clause as failure to take delivery of the Goods.
- 5.4 Any delay in performance or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 5.5 Time is not of the essence in relation to the performance or delivery of the Goods. The Supplier shall use its reasonable endeavours to meet estimated dates for delivery and performance, but any such dates are approximate only.
- 5.6 The Suppliers liability in respect of any total failure to deliver the Goods for any reason other than any cause beyond the Supplier's reasonable control or as a result of the Supplier's fault, shall be limited to the excess over the price of the Goods or the price of similar Goods to the Customer to replace those not delivered, provided always that written notice of non-delivery is given by the Customer within 14 days of

the last day of the time period for delivery set out in the contract. This clause relates strictly to non-delivery.

- 5.7 The Supplier reserves the right to substitute the Goods for a suitable alternative variety if the variety ordered is not available. The Customer may return the substituted variety within 14 days of Delivery if the substitute is not acceptable. The Supplier shall refund the Customer and the contract will be deemed cancelled without any further liability to either party.
- 5.8 Contracts for Goods imported are subject to the supplies being available to the Supplier by the normal supplier with whom the contract for their supply is usually placed. In the event the Goods and a suitable alternative, in accordance with clause 5.7, are unavailable the Order shall be deemed cancelled without any further liability to either party. The Supplier shall have no liability for any Goods not delivered in accordance with this clause 5.8.
- 5.9 In the event the Customer will not accept delivery of any of the Goods or the Supplier is unable to deliver because the Customer has failed to give the Supplier adequate delivery instructions or appropriate authorisations within the time period for delivery set out in the contract then without prejudice to any other right or remedy available to the Supplier:
- (a) risk in the Goods will pass to the Customer and the Customer shall remain liable for the price of the Goods unless sold in accordance with (d) below;
  - (b) the Supplier may store the Goods until actual delivery and charge the Customer the reasonable costs (including insurance) of storage and of any failed delivery of the Goods by the Supplier to the Customer and of any return of the Goods to the Supplier;
  - (c) The Supplier shall not be liable for any deterioration of the Goods after the time period for delivery set out in the contract; and
  - (d) the Supplier may sell the Goods at the best price readily obtainable and charge the Customer for any shortfall below the price under the contract together with any reasonable expenses incurred in relation to such sale, and the Supplier shall have no further liabilities under the contract with the Customer.
- 5.10 Unless otherwise agreed between the parties delivery of a shortage or surplus not exceeding 5% of the quantity or weight of the Goods ordered shall, at the Supplier's option be considered to be due execution of the contract and the Customer shall not be entitled to object to or reject the Goods by reason or such surplus or shortfall. The Supplier shall have the right to the return of any surplus over the amount of Goods ordered.
- 5.11 The quantity of any consignment of Goods as recorded by the Supplier on dispatch of the Goods shall be conclusive evidence of the quantity received by the Customer. The Customer must carefully examine the Goods on delivery and shall, other than for defects in bulk deliveries, within 2 business days of the delivery of the Goods give notice in writing to the Supplier of any defects reasonably discoverable.

Final

- 5.12 In the case of such defects in Goods delivered in bulk notice must be given verbally to the Supplier before the Goods have been discharged. In the absence of receipt of such notice the Supplier shall be discharged from all liability in respect of defects reasonably discoverable on careful examination on delivery.
- 5.13 If the Customer establishes the Goods are defective in accordance with clause 5.11 or 5.12, the Customer's sole remedy shall be limited to either replacement of the defective Goods or a refund of the price of the Goods on return of the Goods to the Supplier.
- 5.14 In the event the Customer wishes to complain about any Goods in accordance with clauses 5.11 and 5.12 clear evidence must be provided confirming the Goods are the goods which the Supplier delivered. The Customer must also satisfy the Supplier they have complied with all notices and guidance contained in or on the Goods. In the absence of this evidence the Supplier shall accept no liability for any loss suffered and such a complaint shall not be considered.

## **6. TITLE AND RISK**

- 6.1 Risk in the Goods shall pass to the Customer from the time of delivery.
- 6.2 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds.
- 6.3 Until title to the Goods has passed the Customer shall:
- (a) hold the Goods as bailee for the Supplier;
  - (b) store the Goods separately from all other material in the Customer's possession;
  - (c) take all reasonable care of the Goods and keep them in the condition in which they were delivered;
  - (d) insure the Goods from the date of delivery: (i) with a reputable insurer (ii) against all risks (iii) for an amount at least equal to their Price (iv) noting the Supplier's interest on the policy;
  - (e) ensure that the Goods are clearly identifiable as belonging to the Supplier;
  - (f) not remove or alter any mark on or packaging of the Goods;
  - (g) inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clause 14; and
  - (h) on reasonable notice permit the Supplier to inspect the Goods during the Customer's normal business hours and provide the Supplier with such information concerning the Goods as the Supplier may request from time to time.
- 6.4 Notwithstanding clause 6.3, the Customer may use or resell the Goods in the ordinary course of its business until such time as the Supplier revokes this permission.

- 6.5 The Customer's right to possession of the Goods shall cease at whichever is the earliest of the following dates:
- (a) on the failure by the Customer to perform its obligations under any contract with the Supplier or under these conditions;
  - (b) on the Customer being the subject of any one of the events listed in clause 14.
- 6.6 The Customer grants the Supplier its agents and employees an irrevocable licence to enter any premises where the Goods are stored to inspect them or, where the Customer's right to possession has terminated, recover them.
- 6.7 The Customer shall not be entitled to pledge or in any way charge, by way of security, for any indebtedness any of the Goods which remain the property of the Supplier. If the Customer does so, all monies owing by the Customer to the Supplier shall immediately become due and payable.

## **7. WARRANTY**

- 7.1 All warranties or terms and conditions implied by statute or otherwise including without limitation in relation to quality, fitness, correspondence with sample or description in relation to the Goods are hereby excluded to the fullest extent permissible by law.
- 7.2 The Supplier will use reasonable endeavours to transfer the benefit of any warranties it is given by manufacturers of chemicals or fertilizers but the Supplier gives no warranty itself in respect of such products.
- 7.3 All advice provided by the Supplier, including (but not limited to) product recommendations and market conditions and which is not subject to a separate charge for such advice, is given without liability to the Customer. The Customer should seek independent expert advice. If any advice is given for which an express charge is made for such advice or consultancy services, the advisory service will be given with reasonable care and skill but all other warranties implied by law shall be excluded to the full extent permitted by law.
- 7.4 The Supplier gives no guarantee or warranty the Goods will be free of organisms produced by genetic modification. The Supplier accepts no liability for loss or damage resulting from the contamination of seed with genetically modified organisms.

## **8. INDEMNITY AND INSURANCE**

- 8.1 The Customer shall indemnify, and keep indemnified, the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Supplier as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract or any failure by the Customer to obtain necessary permissions, consents or licences which may be necessary for use of, or possession of the Goods.

Final

8.2 The Customer shall have contracts of insurance with reputable insurers to cover its obligations under the Contract. On request, the Customer shall supply so far as is reasonable evidence of the maintenance of the insurance and all of the terms from time to time.

## **9. LIMITATION OF LIABILITY**

9.1 It is acknowledged by the Supplier and the Customer that after the Goods have been delivered to the Customer, the Supplier cannot exercise any control over either the storage, handling, mixing, application and use of the Goods supplied or the weather conditions prevailing before, during or after application or use, all or any of which may effect the performance of the Goods. It is also acknowledged that failure whether total or partial of any crop may depend on many natural and other factors beyond the Suppliers control. Accordingly, the Suppliers liability in respect of defective Goods in contract, tort or otherwise is strictly limited as set out in clause 7 and this clause 9.

9.2 It shall be a condition of the Supplier's liability that the Customer has followed strictly the instructions for use supplied to the Customer by the manufacturer it in respect of the Goods, including, without limitation, instructions on storage, handling, mixing, application and records in safekeeping to show the Customer has done so. The Supplier shall have no liability as a result of the Customer's failure to produce the appropriate aforementioned records.

9.3 Subject to clause 9.6, the Supplier's aggregate liability for breach of contract or warranties contained in clause 7, or in tort shall be limited to the value of the Goods supplied under the contract.

9.4 No liability for losses in accordance with clause 9.3 shall attach to the Supplier unless details of such losses are notified to the Supplier within 7 days of the date of delivery. In cases of non-delivery, claims must be notified to the Supplier in accordance with clause 5.

9.5 The Supplier shall be under no liability whether in contract or in tort (including negligence) or otherwise for any loss of:

- (a) Profit;
- (b) Goodwill;
- (c) Consequential loss or damage; or
- (d) Production.

whatsoever suffered by the Customer or any other person in connection with Goods supplied by the Supplier.

9.6 Nothing herein shall be deemed to exclude or restrict any liability which cannot be excluded or restricted under the provisions of any statute, including the Unfair Contract Terms Act 1977 and in particular the Supplier does not exclude any liability for death or personal injury resulting from the Suppliers negligence.



- 9.7 The Supplier is to deliver the Goods to the Customer and cannot exercise any control over any consequential events including but not limited to, handling, mixing or storage of the Goods. It is also acknowledged other conditions such as the weather will affect the performance of the Goods. The failure, whether total or partial, of any crop may depend on many natural and other factors beyond the Supplier's control. Accordingly the Supplier's liability in relation to defective Goods is strictly limited to that set out in clauses 9 and 10.
- 9.8 Where any treatment whether chemical or otherwise is applied to seed at the request of the Customer the Supplier's only duty shall be to ensure that such treatment is carried out in accordance with the instructions given by the manufacturer of the chemical in question. The Supplier accepts no responsibility whatsoever for, nor does it give any warranty as to the effectiveness of such treatment nor for any liability, loss or damage, direct or consequential, which may result from such treatment. Where the seeds have been treated with a liquid or powder to control pest or diseases or have been fumigated or pelleted, the purity and germination percentages are based on tests made before the treatment. Intellectual property.

## **10. INTELLECTUAL PROPERTY**

- 10.1 The Supplier retains all right, title and interest in and to those of its Intellectual Property rights existing prior to and used in connection with the delivery of the Goods.
- 10.2 As between the Customer and the Supplier all Intellectual Property rights arising from the delivery of the Goods including (without limitation) those subsisting in all and any reports, contents, graphics, maps, photographs, computer programs, data and specifications (including drafts) shall be owned by the Supplier.
- 10.3 The Supplier grants to the Customer free of charge a non-exclusive personal, worldwide licence right to use the Intellectual Property rights to such extent as it is necessary to enable the Customer to make reasonable use of the Goods for the purpose of which they are delivered. This licence will continue indefinitely unless and until the Supplier terminates the licence to the Customer and/or expressly terminates the Contract pursuant to which the applicable Intellectual Property rights are licensed. The Customer acknowledges and agrees that the Intellectual Property rights remain the property of the Supplier and it will not make them available and will not make the Goods available to any third party without the prior written consent of the Supplier.
- 10.4 The Customer acknowledges that the Supplier may use sub-contractors to deliver certain elements of the Goods and to the extent it does so, the Customer's use of the Goods is subject to the licence terms of its sub-contractor.

## **11. CONFIDENTIALITY AND ANNOUNCEMENTS**

- 11.1 The Customer shall keep confidential all Confidential Information of the Supplier and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
- (a) any information which was in the public domain at the date of the Contract;

Final

- (b) any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
- (c) any information which is independently developed by the Customer without using information supplied by the Supplier; or
- (d) any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.

11.2 This clause shall remain in force in perpetuity.

11.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

## **12. FORCE MAJEURE**

12.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:

- (a) promptly notifies the other of the Force Majeure event and its expected duration; and
- (b) uses best endeavours to minimise the effects of that event.

12.2 If, due to Force Majeure, a party:

- (a) is or shall be unable to perform a material obligation; or
- (b) is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days;

the other party may, within 30 days, terminate the Contract on immediate notice.

## **13. CANCELLATION**

13.1 No order which has been accepted by the Customer may be cancelled by the Customer and no Goods which have been supplied may be returned by the Customer to the Supplier except with the agreement in writing of the Supplier and on the following terms:

- (a) any Goods returned must be returned no more than one calendar month after the date of delivery and in any event no return of Goods will be accepted after the end of the applicable planting season;
- (b) no Goods will be accepted for return if the Goods supplied are no longer on the Approved List of the Department for Environment, Food and Rural Affairs as at the date of return;
- (c) no Goods will be accepted by the Supplier as returned Goods unless the Goods are in their original packaging unopened and in undamaged condition; and

- (d) in all cases where an order is cancelled by the Customer or Goods are returned by the Customer the Customer shall pay the Supplier a handling charge of 10% of the invoiced fee.

13.2 If the Supplier terminates any contract with the Customer for any reason, the Supplier shall have the right, without prejudice to any other rights and remedies available and without liability to the Customer immediately to terminate any other contracts and/or order for Goods between the Supplier and the Customer.

#### **14. INSOLVENCY**

14.1 If the Customer (being a company or other incorporated body):

- (a) Is unable to pay its debts within the meaning of s123 Insolvency Act 1986 or convenes a meeting of its creditors;
- (b) Proposes to enter into an arrangement voluntarily within Part 1 of the Insolvency Act 1986 or a any other proposal for a composition, scheme or arrangement with its creditors or a receiver;
- (c) Appoints a administrative receiver or similar officer to deal with all or a substantial part of the business or its affairs; or
- (d) convenes a meeting for the purpose of considering a resolution or other steps towards winding up or for the making of an administration order.

14.2 If the Customer (being an individual):

- (a) Is unable to pay its debts within the meaning of s268 of the Insolvency Act 1986;
- (b) Is presented with a petition for bankruptcy; or
- (c) Makes an arrangement or compromise for the benefit of its creditors.

14.3 If a Customer (being a partnership):

- (a) is unable to pay its debts;
- (b) Is presented with a petition for its winding up under the provisions of the Insolvent Partnerships Order 1994;
- (c) If such petition for winding up is presented in conjunction with bankruptcy or individual insolvency, or if a petition is in relation to any partner;
- (d) Enters into any composition, scheme or arrangement or voluntary arrangement including its business and assets or the share of any partner; or
- (e) is involved in any action for a partnership account and/or a winding up or dissolution of the Customer under the Partnership Act 1890.

14.4 In any of the circumstances set out in clauses 14.1, 14.2 or 14.3, notwithstanding any previous arrangements with the Supplier for deferred payments, the full remaining price for any Goods delivered shall become payable.

Final

- 14.5 The Supplier shall have the right without prejudice to any other rights and remedies available to cancel and/or suspend or to refuse to accept any further deliveries and/or terminate the Contract at any time after becoming aware of any circumstances listed in clauses 14.1, 14.2 or 14.3, provided that when exercising any of the above rights the Supplier shall inform the Customer in writing of its intention to exercise such right or rights within 28 days of the relevant occurrence.
- 14.6 The Supplier shall not be liable to pay any compensation to the Customer if the rights under this clause shall be exercised.

## **15. DISPUTE RESOLUTION**

- 15.1 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The Customer shall provide notice to the Supplier within 30 days of becoming aware of such a matter. The notice shall include reasonable information as to the nature of the dispute.
- 15.2 The Supplier will not be liable in respect of any claim unless the Customer has taken every opportunity to minimise such a claim. The parties shall use all reasonable endeavours to reach a negotiation resolution. Any matters which remain unresolved shall be referred for settlement by arbitration in England under the rules of the Agricultural Industries Confederation (AIC) of which all the parties shall be deemed to have knowledge.
- 15.3 Arbitration proceedings must be commenced within 90 days from the last day of the Contract. The Supplier shall have no liability in any claim where the time limits in this clause 15.4 and 15.1 are not complied with.
- 15.4 If at any point during the dispute it becomes reasonable apparent that the manufacturer of the Goods supplied should be a party to the proceedings, the arbitration proceedings shall be stayed to enable the manufacturer to be added as a party.
- 15.5 The Supplier reserves the right to demand samples of any Goods in relation to which the Customer is making a quality claim. The Supplier and Customer shall jointly appoint an analyst to examine such samples. If the Customer and Supplier are unable to agree on an expert, the matter shall be referred to the AIC.

## **16. NOTICES**

- 16.1 Any notice provided under this agreement shall be in writing and shall be deemed properly given if addressed to the party concerned as its principal place of business or last known address.

## **17. CUMULATIVE REMEDIES**

The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.

**18. TIME**

Unless stated otherwise, time is of the essence for any date or period specified in the Contract in relation to the Customer's obligations only.

**19. FURTHER ASSURANCE**

The Customer shall at the request of the Supplier, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

**20. ENTIRE AGREEMENT**

20.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

20.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

20.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

**21. VARIATION**

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, the Supplier.

**22. ASSIGNMENT**

22.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent, which it may withhold or delay at its absolute discretion.

22.2 Notwithstanding clause 22.1, the Customer may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives the Supplier prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Customer acknowledges and agrees that any act or omission of its Affiliate in relation to the Customer's rights or obligations under the Contract shall be deemed to be an act or omission of the Customer itself.

**23. SET OFF**

23.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract.

23.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

**24. NO PARTNERSHIP OR AGENCY**

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

**25. EQUITABLE RELIEF**

The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

**26. SEVERANCE**

26.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

26.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

**27. WAIVER**

27.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

**28. COMPLIANCE WITH LAW**

The Customer shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

**29. CONFLICTS WITHIN CONTRACT**

If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail.

**30. COSTS AND EXPENSES**

The Customer shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).

**31. THIRD PARTY RIGHTS**

31.1 Except as expressly provided for in these Conditions, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

**32. GOVERNING LAW**

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

**33. JURISDICTION**

The parties irrevocably agree 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, its subject matter or formation (including non-contractual disputes or claims).