

## Conditions of Sale

### 1. Interpretation

#### 1.1 In these Conditions:

**Business Day** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Buyer** means the company or person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.

**Conditions** means the standard terms and conditions of sale set out in this document and (unless the content otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

**Contract** means the contract for the purchase and sale of the Goods.

**Goods** means the goods (including any instalment of the goods), which the Seller is to supply in accordance with these Conditions.

**Sales Order Acknowledgement** means the document sent by the Seller to the Buyer accepting the Buyer's offer to purchase the Goods in accordance with these Conditions.

**Seller** means TN UNITED KINGDOM,LTD. a company registered in England and Wales with company no. 01149449 of Unit K, Downlands Business Park, Lyons Way, West Sussex, BN14 9LA. VAT no. GB 219 1842 64 Tel: 01903 891 200. Fax: 01903 891 220. Email: uk.Sales@europe.tsubaki-nakashima.com

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4 A reference to **writing** or **written** includes faxes and e-mails.

### 2. Basis of the sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written or verbal quotation given by the Seller, which is accepted by the Buyer, or any order submitted by email, fax, post, or telephone by the Buyer which is accepted by the Seller, subject in either case to these Conditions.

2.2 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.

2.3 No variation to these Conditions shall be binding unless agreed in writing between the authorised representations of the Buyer and the Seller.

2.4 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations, which are not so confirmed.

2.5 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods, which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

### 3. **Orders and specifications**

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed by a Sales Order Acknowledgement.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, quality and description and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

3.4 The Seller reserves the right to make any changes to the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to either the Seller's or Buyer's specification, which do not materially affect their quality or performance.

### 4. **Prices of the Goods**

4.1 The price of Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of the Sales Order Acknowledgement. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller, which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods, which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

4.3 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

4.4 In addition to the price the Buyer shall pay the cost incurred by the Seller in delivering the Goods to the Buyer at the address shown on the quotation or order as the case may be with a minimum charge of £1.

4.5 The Buyer shall pay a minimum price of £10 for any one Contract (other than a Contract treated as such by condition 6.4, solely because it represents a delivery of one instalment of Goods).

### 5. **Terms of payment**

5.1 The Buyer can only pay for Goods by way of cash, cheque, wire transfer, debit or credit card. Unless the Seller has agreed to grant credit terms to the Buyer, payment in full shall be made by the Buyer when ordering the Goods.

- 5.2 If credit terms have been agreed or the Seller has accepted the Buyer's order for the Goods without payment or on payment of a deposit, the Seller shall be entitled to invoice the Buyer for the price of the Goods less any deposit paid or at any time after dispatch of the Goods, unless the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer at any time after the Seller has notified the Buyer that the Seller has tendered dispatch of the Goods.
- 5.3 Unless clause 5.1 applies the Buyer shall pay the price within 30 days after the date of the Seller's invoice, notwithstanding that delivery may not have taken place and title to the Goods has not passed to the Buyer. The time of payment of the invoice shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.4 If the Buyer fails to make any payment on the due date then, without prejudices to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 5.4.1 cancel the Contract or suspend any further deliveries to the Buyer;
- 5.4.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
- 5.4.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 5% per annum above Santander UK plc. base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

## 6. **Delivery**

- 6.1 Delivery of the Goods shall be made by the Seller to the address shown on the quotation or order or if no address is shown by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.3 Where delivery of the goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 10% more or 10% less than the quantity ordered and the quantity so delivered shall be deemed to be the quantity ordered.
- 6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.5 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.6 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

- 6.6.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) or storage; or
- 6.6.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

**This clause 6.7 only applies if the Buyer is a consumer.**

- 6.7 If the Seller misses the delivery deadline for any Goods then the Buyer may cancel the Contract straight away if any of the following apply:
  - 6.7.1 The Seller has refused to deliver the Goods:
  - 6.7.2 Delivery within the delivery deadline was essential (taking into account all the relevant circumstances). Or
  - 6.7.3 The Buyer told the Seller before the Seller accepted the order that delivery within the delivery deadline was essential.
- 6.8 If Buyer does not wish to cancel its order straight away, or does not have the right to do so under clause 6.7, the Buyer can give the Seller a new deadline for delivery, which must be reasonable, and the Buyer can cancel the Contract if the Seller does not meet the new deadline.
- 6.9 If the Buyer chooses to cancel the Contract for late delivery under clause 6.7 or clause 6.8, the Buyer can do so for just some of the Goods or all of them, unless splitting them up would significantly reduce their value. If the Goods have been delivered to the Buyer, the Buyer must return them to the Seller or allow the Seller to collect them, and the Seller will pay the costs of this.
- 7. **Title and risk**
  - 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
    - 7.1.1 in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
    - 7.1.2 in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
  - 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, title to the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other Goods agreed to be sold by the Seller to the Buyer for which payment is then due.
  - 7.3 Until such time as title to the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods properly stored, protected and insured and identified as the Seller's property. Until that time if the Buyer shall resell or use the Goods, he shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or

property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

7.4 Until such time as title to the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold, the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.5 The Buyer 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 Seller, but if the Buyer does so, all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

## 8. **Cancellation (for businesses)**

No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing by the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

## 9. **Cancellation, right of return and refund for consumers in the European Union**

**This clause 9 only applies if you are a consumer.**

9.1 If the Buyer is a consumer based in the European Union, the Buyer has a legal right to cancel a Contract, which starts on the date of the Sales Order Acknowledgement (the date on which the Seller confirms its acceptance of the Buyer's order). The Buyer's deadline for cancelling the Contract is then as follows:

<b>Buyer's Contract</b>	<b>End of the cancellation period</b>
Contract is for one type of Goods.	The end of the cancellation period is the end of <b>14 days</b> after the day on which the Buyer receives the Goods.
Contract is for either: <ul style="list-style-type: none"><li>• one type of Goods which are delivered in instalments on separate days; or</li><li>• multiple types of Goods which are delivered on separate days.</li></ul>	The end of the cancellation period is the end of <b>14 days</b> after the day on which the Buyer receives the last instalment of the Goods or the last of the separate Goods ordered.

- 9.2 To cancel a Contract, the Buyer must inform the Seller that it has decided to cancel. The Buyer can e-mail the Seller at [uk.Sales@europe.tsubaki-nakashima.com](mailto:uk.Sales@europe.tsubaki-nakashima.com) or contact the Customer Care team by post to TN UNITED KINGDOM, LTD., Unit K, Downlands Business Park, Lyons Way, West Sussex, BN14 9LA
- 9.3 If the Buyer is a consumer and cancels the Contract the Seller will:
- 9.3.1 refund the Buyer the price paid for the Goods less a reduction in price to reflect any reduction in the value of the Goods that has been caused by the Buyer's handling. If the Seller refunds the Buyer the price paid before the Seller is able to inspect the Goods and later discovers that the Buyer had handled them in an unacceptable way, the Buyer must pay the Seller an appropriate amount;
- 9.3.2 refund the Buyer the price of the least expensive delivery option; and
- 9.3.3 make any refunds due to the Buyer as soon as possible and in any event within the deadlines indicated below:
- (a) if the Buyer has received the Goods and the Seller has not offered to collect them from the Buyer: 14 days after the day on which the Seller receives the Goods back from the Buyer or, if earlier, the day on which the Buyer provide the Seller with evidence that the Buyer has sent the Goods back to the Seller. For information about how to return a Product to the Seller, see clause 9.6; and
- (b) if the Buyer has not received the Goods or the Buyer has received them and the Seller has offered to collect them from the Buyer: 14 days after the Buyer informs the Seller of their decision to cancel the Contract.
- 9.4 If the Buyer has returned the Goods to the Seller under this clause 9 because they are faulty or mis-described, the Seller will refund the price of the Goods in full, together with any applicable delivery charges, and any reasonable costs the Buyer incurred in returning the Goods to the Seller.
- 9.5 If the Goods have been delivered to the Buyer before the Buyer decides to cancel the Contract:
- 9.5.1 then the Buyer must return them to the Seller without undue delay and in any event not later than 14 days after the day on which the Buyer informs the Seller that it wishes to cancel the Contract. The Buyer may either send the Goods back or return them to our registered address; and
- 9.5.2 the Seller will be responsible for the cost of returning the Goods if the Buyer is returning them from within the UK. However, unless the Goods are faulty or not as described if the Buyer is returning them from outside the UK, the Buyer will be responsible for the cost of returning the Goods to the Seller. If the Goods are ones which cannot be returned by post, the Buyer is advised to use the carrier which delivered the Goods as these costs should not exceed the sums the Seller charged the Buyer for delivery. If the Seller has offered to collect the Goods from the Buyer, the Seller will charge the Buyer the direct cost of collection.

9.6 The Seller is under a legal duty to a Buyer who is a consumer to supply Goods that are in conformity with this Contract. Also, as a consumer the Buyer has legal rights in relation to Goods that are faulty or not as described. These legal rights are not affected by the Buyer's right of return and refund in this clause 9 or anything else in these Conditions. Advice about the Buyer's legal rights as a consumer is available from their local Citizens' Advice Bureau or Trading Standards office.

## 10. **Warranties**

10.1 Subject to the conditions set out below, the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 6 months from the date of their initial use or 12 months from delivery, whichever the first to expire.

10.2 The above warranty is given by the Seller subject to the following conditions:

10.2.1 the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

10.2.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;

10.2.3 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment; and

10.2.4 the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacture or the Seller.

10.3 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

## 11. **The Seller's liability if the Buyer is a business**

**This clause 11 only applies if the Buyer is a business customer.**

11.1 The Seller only supplies Goods for internal use by the Buyer's business and the Buyer agrees not to use the Goods for any resale purposes.

11.2 Nothing in these Conditions limits or excludes the Seller's liability for:

11.2.1 death or personal injury caused by the Seller's negligence;

11.2.2 fraud or fraudulent misrepresentation;

11.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or

11.2.4 defective products under the Consumer Protection Act 1987.

11.3

Subject to clause 11.2, the Seller will under no circumstances whatsoever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- 11.3.1 any loss of profits, sales, business, or revenue;
- 11.3.2 loss or corruption of data, information or software;
- 11.3.3 loss of business opportunity;
- 11.3.4 loss of anticipated savings;
- 11.3.5 loss of goodwill; or
- 11.3.6 any indirect or consequential loss.

11.4 Subject to clause 11.2, the Seller's total liability to the Buyer in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total price of the Goods.

11.5 Except as expressly stated in these Conditions, the Seller does not give any representation, warranties or undertakings in relation to the Goods. Any representation, condition or warranty which might be implied or incorporated into these Conditions by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, the Seller will not be responsible for ensuring that the Goods are suitable for the Buyer's purposes.

12.

### **Our liability if the Buyer is a consumer**

#### **This clause 12 only applies if the Buyer is a consumer.**

12.1

If the Seller fails to comply with these Conditions, the Seller is responsible for loss or damage the Buyer suffers that is a foreseeable result of the Seller's breach of these Conditions or the Seller's negligence, but the Seller is not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of the Seller's breach or if it was contemplated by the Buyer and Seller at the time the Contract was entered into.

12.2

The Seller only supplies the Goods for domestic and private use. The Buyer agrees not to use the Goods for any commercial, business or resale purposes, and the Seller has no liability to the Buyer for any loss of profit, loss of business, business interruption, or loss of business opportunity.

12.3

The Seller does not in any way exclude or limit our liability for:

12.3.1

death or personal injury caused by our negligence;

12.3.2

fraud or fraudulent misrepresentation;

12.3.3



any breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);

12.3.4

any breach of the terms implied by section 13 to 15 of the Sale of Goods Act 1979 (description, satisfactory quality, fitness for purpose and samples); and

12.3.5

defective products under the Consumer Protection Act 1987.

### 13. **Force majeure**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

### 14. **Insolvency of Buyer**

14.1 This clause applies if the Buyer:

14.1.1 fails to pay any undisputed amount due under these Conditions on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

14.1.2 commits a material breach of any other term of these Conditions which breach is irremediable or and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

14.1.3 repeatedly breaches any of the terms of these Conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

14.1.4 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;

14.1.5 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;

14.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of the Buyer;

14.1.7 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 Buyer;

- 14.1.8 the holder of a qualifying floating charge over the assets of the Buyer has become entitled to appoint or has appointed an administrative receiver;
- 14.1.9 a person becomes entitled to appoint a receiver over the assets of the Buyer or a receiver is appointed over the assets of the Buyer;
- 14.1.10 a creditor or encumbrancer of the Buyer 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 its assets and such attachment or process is not discharged within 14 days;
- 14.1.11 any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2.4 to clause 14.2.9 (inclusive);
- 14.1.12 the other party ceases, or threatens to cease, to carry on all or substantially the whole of its business; or
- 14.1.13 there is a change of control of the Buyer (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 14.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
15. **Export Terms**
- 15.1 In these conditions 'Incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
- 15.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 15 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these conditions.
- 15.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the goods into the country of destination and for the payment of any duties thereon.
- 15.4 Unless otherwise agreed in writing between the Buyer and the Seller, the Goods shall be delivered f.o.b. the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32 (3) of the Sale of Goods Act 1979.
- 15.5 The Buyer shall be responsible for arranging for testing and inspection of the Goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.
- 15.6 Unless otherwise required by the Seller, payment of all amounts due to the Seller shall be made by irrevocable letter of credit, in a form acceptable to the Seller, to be opened by the Buyer in favour of the Seller and confirmed by a bank in the United Kingdom acceptable to the Seller within 14 days after the Contract is concluded.

## 16. **General**

### 16.1 **Assignment and other dealings**

16.1.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

16.1.2 The Customer may not 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 without the prior written consent of the Supplier.

### 16.2 **Notices**

16.2.1 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.

16.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred provided on the Sales Order Acknowledgement 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.

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

### 16.3 **Severance**

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.

### 16.4 **Waiver**

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

### 16.5 **Third party rights**

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

**16.6 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 in writing and signed by the Supplier.

**16.7 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 English law.

**16.8 Jurisdiction**

Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).