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Terms & Conditions

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The Customer's attention is particularly drawn to the provisions of clause 11 (Limitation of liability).

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

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

Business Hours: the period from 9.30 am to 5.30 pm on any Business Day Monday to Thursday, and the period from 9.30 am to 1.00 pm on any Business Day falling on a Friday.

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be interpreted accordingly.

Customer: the person or firm who purchases the Goods and/or Services from the Supplier.

Delivery Location: has the meaning given in clause 4.2.

Force Majeure Event: has the meaning given to it in clause 14.

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

Goods Specification: any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form or email from the Customer particularising their order either of which shall constitute the Customer's written acceptance of the Supplier's quotation.

Services: the services supplied by the Supplier to the Customer as set out in the Service Specification.

Service Specification: the description or specification for the Services provided in writing by a director of the Supplier to the Customer.

Supplier: Orb Interiors Ltd, of Unit A4 – A5, Springfield Industrial Estate, Cottenham Lane, Salford, M7 1TW registered in England and Wales with company number 09718472.

Supplier Materials: has the meaning given in clause 8.1(j).

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) 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.
- (e) The headings in these Conditions are for convenience only and shall not affect their interpretation.
- (f) A reference to **writing** or **written** excludes fax and email.

2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when a director of the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Customer is responsible for ensuring the accuracy of the Order, including any specifications provided by the Customer to the Supplier. The Supplier shall have no liability to the Customer in respect of any inaccuracy contained within the Order or any inaccuracies of any specifications provided by the Customer to the Supplier.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures or website or social media channels are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract nor have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.6 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 calendar days from its date of issue.

- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
- 2.8 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.9 No variation to the Conditions shall be binding unless agreed in writing between the Customer and a director of the Supplier.
- 2.10 The Supplier's employees and agents are not authorised to make any representations concerning the Goods and Services unless confirmed in writing by a director of the Supplier. In entering into the Contract the Customer acknowledges it does not rely on, and waives any claim for breach of, any representation which has not been confirmed in accordance with this clause.
- 2.11 Any advice or recommendation made by the Supplier its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by a director of the Supplier and followed or acted upon entirely at the Customer's own risk. Accordingly, the Supplier shall have no liability to the Customer for any such advice or recommendation which has not been confirmed in accordance with this clause.

3. Goods

- 3.1 The Goods are described in the Supplier's written quotation.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

4. Delivery of Goods

- 4.1 These provisions shall apply to the delivery of the Goods, save where the Customer collects the Goods from the Supplier's premises in accordance with the Order. In which case the Customer is required pursuant to the Order to collect the Goods, the Customer shall collect the Goods at any time during the Supplier's Business Hours after the Supplier has notified the Customer that the Goods are ready for collection.

- 4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree in writing (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.
- 4.3 Where delivery of the Goods is to take place in instalments each instalment of Goods delivered to the Delivery Location shall constitute a separate contract. Failure by the Supplier to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more of the instalments shall not entitle the Customer to repudiate the entire Contract.
- 4.4 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.5 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence unless agreed in writing by a director of the Supplier.
- 4.6 The Supplier 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 Supplier with adequate delivery instructions or any other instructions that are relevant to the supply and or delivery of the Goods.
- 4.7 If the Supplier fails to deliver the Goods, its liability shall be limited to the cost incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 4.8 If the Customer fails to take delivery of the Goods or where relevant fails to collect the Goods then within 3 Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
 - (b) the Supplier shall store the Goods and the Customer shall pay the Supplier £12 + value added tax (at the prevailing rate) per day until the earlier of collection of the Goods or termination of the Contract.
- 4.9 If 15 Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery or tendered delivery of the Goods and the Customer has not collected or accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and to charge the Customer for any costs associated with taking such steps including requiring the Customer to pay any shortfall between the difference of the Order price and the price obtained by the Supplier upon the resale of the Goods. The Customer shall not be entitled to a refund of any deposit paid to the Supplier.

4.10 If the Goods delivered to or collected by the Customer are incomplete the Customer must notify the Supplier within 1 Business Day. The Supplier shall have no liability in respect of any notification made outside the scope of this clause.

4.11 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality of Goods

5.1 Any defect in respect of the quality condition or specification of the Goods shall be notified in writing to the Supplier within 7 days of delivery of the Goods (or the date on which delivery was tendered or the date on which the Supplier notified the Customer that the Goods were available for collection) where such defect is apparent upon a reasonable inspection of the Goods. Any such defect which is not apparent upon a reasonable inspection of the Goods must be notified in writing to the Supplier within 2 Business Days after discovery of the defect. If the Customer fails to notify the Supplier in accordance with this clause the Customer must pay for the Goods as if the Goods had been delivered in accordance with the Order and the terms of this Contract.

5.2 Save as set out above, the Supplier warrants from delivery or collection (as relevant) of the Goods as follows:

- (a) the Goods shall conform in all material respects with their description;
- (b) all cabinet and doors and wire work shall be free from material defects in design, material and workmanship for a period of 6 years;
- (c) all drawers shall be free from material defects in design, material and workmanship for a period of 25 years;
- (d) all laminate work tops shall be free from material defects in design, material and workmanship for a period of 1 year; and
- (e) all appliances shall be subject to the manufacturers' warranty.

5.3 The warranty provided at clause 5.2 shall not apply to parts materials or equipment not manufactured by the Supplier in which case the Customer shall only be entitled to any warranty or guarantee as provided by the manufacturer to the Supplier.

5.4 The warranty provided at clause 5.2 shall only apply to any Goods used in a private single family occupied domestic residential property. For the avoidance of doubt the warranty provided at clause 5.2 shall not apply to residential properties which are let to tenants whether on an assured shorthold tenancy agreement or otherwise.

5.5 Subject to clause 5.6, if:

- (a) the Customer gives notice in writing to the Supplier during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.12;
- (b) the Supplier is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full. The Customer accepts that the Supplier may not be able to colour match any replacement Goods.

5.6 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 if:

- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.6;
- (b) the defect arises because the Customer failed to follow the Supplier'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;
- (c) the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;
- (d) the Customer alters or repairs such Goods without the written consent of a director of the Supplier;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, abnormal conditions or misuse;
- (f) the Customer fails to fit the Goods in accordance with good trade practice; or
- (g) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

5.7 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.2.

5.8 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer as follows:

- (a) if the Customer is required to collect the Goods from the Supplier, risk in the Goods shall pass at the time the Supplier notifies the Customer that the Goods are available for collection;

(b) if the Supplier is required to deliver the Goods to the Delivery Location, risk in the Goods shall pass at the time of delivery, or if the Customer wrongfully fails to accept delivery of the Goods, risk in the Goods shall pass at the time the Supplier tendered delivery of the Goods.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 12.3(b) to clause 12.3(d); and
- (e) give the Supplier such information as the Supplier may reasonably require from time to time relating to:
 - (i) the Goods; and
 - (ii) the ongoing financial position of the Customer.

6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

- (a) it does so as principal and not as the Supplier's agent; and
- (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

6.5 At any time before title to the Goods passes to the Customer, the Supplier may:

- (a) by notice in writing, terminate the Customer's right under clause 6.4 to resell the Goods or use them in the ordinary course of its business; and
- (b) require the Customer to deliver up all Goods in its possession 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 in order to recover them.

6.6 The Customer shall not pledge or in any way charge by way of security for any indebtedness the Goods which remain the property of the Supplier, but if the Customer does all monies owed by the

Customer to the Supplier shall, without prejudice to any other right or remedy of the Supplier, become immediately due and payable.

7. Supply of Services

- 7.1 These clauses shall apply to all Orders which include the supply of Services by the Supplier.
- 7.2 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.3 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.4 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 7.5 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill save that the Supplier shall have no liability to the Customer in respect of any damage to the property at which the Services are to be supplied, including without limitation, damage to the structure, walls, windows, pipes and conduits, floor, floor coverings, ceiling, light fixtures, splashbacks and furniture.
- 7.6 Any survey(s) carried out by the Supplier are undertaken without any liability whatsoever to the Customer.

8. Customer's obligations

- 8.1 The Customer shall:
- (a) ensure that the terms of the Order, the Goods Specification and the Service Specification are complete and accurate;
 - (b) co-operate with the Supplier in all matters relating to the Services;
 - (c) co-operate with the Supplier in relation to the delivery or collection of the Goods;
 - (d) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises and other facilities as reasonably required by the Supplier to provide the Services;
 - (e) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
 - (f) prepare the Customer's premises for the supply of the Services;

- (g) prepare the Delivery Location for the delivery of the Goods;
- (h) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (i) comply with all applicable laws, including health and safety laws;
- (j) keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.

8.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.2;
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default; and
- (d) the Customer shall pay a surcharge to the Supplier of up to 50% of the cost of the Services if the Customer postpones delivery of the Goods or fails to provide the Supplier with access to the property to enable provision of Services.

9. Charges and payment

9.1 Save as set out below, the price for Goods and/or Services and the payment terms shall be set out in the Order. No variation to either the Goods and/or Services or the payment terms shall be binding unless agreed in writing by a director of the Supplier.

9.2 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 12, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.2 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

9.3 All amounts due under the Contract 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).

9.4 The Customer shall pay the Supplier's costs, legal costs (calculated on a full indemnity basis) and all other professional costs and expenses suffered or incurred by the Supplier calculated on a full indemnity basis in respect of any steps taken by the Supplier to recover any monies due to it under the Contract or arising out of the Customer's breach of the Contract or these Conditions.

10. Data protection

10.1 The following definition applies in this clause 10. **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

10.2 Both parties will comply with all applicable requirements of the Data Protection Legislation.

11. Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

11.1 The restrictions on liability in this clause 11 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

11.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
- (d) defective products under the Consumer Protection Act 1987.

11.3 Subject to clause 11.2, the Supplier's total liability to the Customer shall not exceed the value of the Order.

11.4 This clause 11.4 sets out specific heads of excluded loss:

- (a) Subject to clause 11.2, clause 11.4(c) identifies the kinds of loss that are not excluded. Subject to that, clause 11.4(b) excludes specified types of loss.
- (b) The following types of loss are wholly excluded:
 - (i) loss of profits;

- (ii) loss of sales or business;
 - (iii) loss of agreements or contracts;
 - (iv) loss of anticipated savings;
 - (v) loss of or damage to goodwill;
 - (vi) any legal costs incurred by the Customer;
 - (vii) management and other personnel costs; and
 - (viii) indirect or consequential loss.
- (c) The following types of loss and specific loss are not excluded:
- (i) sums paid by the Customer to the Supplier pursuant to the Contract, in respect of any Goods or Services not provided in accordance with the Contract.

11.5 The Supplier shall have no liability to the Customer in respect of any Goods which have been, without limitation, part processed, machined or in any way altered by the Customer or its employees or agents.

11.6 The Supplier has given commitments as to compliance of the Goods and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

11.7 This clause 11 shall survive termination of the Contract.

12. Termination

12.1 Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party not less than 3 Business Days' written notice.

12.2 Any deposit paid by the Customer to the Supplier shall not be refunded if the Customer terminates the Contract unless such termination has arisen due to a non-remedial breach of the Contract by the Supplier.

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

- (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 14 calendar days after receipt of notice in writing to do so;
- (b) the other party 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;

- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

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

- (a) the Customer fails to pay any amount due under the Contract on the due date for payment; or
- (b) there is a change of Control of the Customer.

12.5 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 12.3(b) to clause 12.3(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

13. Consequences of termination

13.1 On termination of the Contract:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of the Supplier Materials and or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and or the Delivery Location and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

13.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

13.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

14. Force majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 6 months, the party not affected may terminate the Contract by giving 7 Business Days' written notice to the affected party.

15. General

15.1 Assignment and other dealings

- (a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract. Save that a Customer acting in the capacity as a developer of a new build property who has purchased Goods and or Services under the Contract may assign the benefit of any warranties provided by the Supplier to the Customer to the first purchaser only of such developed new build property.

15.2 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) 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)
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) 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.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 15.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

15.4 Waiver.

- (a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. Any such waiver by the Supplier must be made by a director.
- (b) 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.

15.5 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

15.6 Entire agreement.

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

15.7 Third party rights. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

15.8 Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

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