

# Smith of Derby Limited, Terms and Conditions of the Supply of Clock Goods & Services

**SMITH OF DERBY**  
CLOCKMAKERS • EST. 1856

## 1.0 DEFINITIONS

1.1 The following definitions apply:

“**Charges**” the charges payable by the customer for the supply of the goods and/or services in condition 6;

“**Customer**” the person, firm or company who purchases Goods and/or Services from Smith;

“**Contract**” any contract between Smith and the Customer created in accordance with **condition 2.2**;

“**Deliverables**” any Goods and the Services (or either of them as the context requires) to be provided by Smith under the Contract;

“**Deposit**” the deposit (if any) to be paid to Smith by the Customer under the Contract as set out in the Proposal or Purchase Order;

“**Goods and/or Products**” any goods or products to be provided under the Contract as set out in the Proposal or the Purchase Order or which Smith otherwise provides or agrees to provide to the Customer;

“**In-put Material**” all documents, information and materials provided by the Customer relating to the Contract;

“**Intellectual Property Rights**” all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“**Price**” the aggregate of the charges to be paid by the Customer for the Deliverables calculated in accordance with **condition 6**;

“**Proposal**” any proposal, quotation or similar document issued by Smith in connection with the provision of the Deliverables;

“**Purchase Order**” the order setting out the particulars of the Deliverables to be provided by Smith under the Contract;

“**Services**” any services to be provided under the Contract as set out in the Proposal or the Purchase Order or which Smith otherwise provides or agrees to provide to the Customer;

“**Smith**” Smith of Derby Limited of 112 Alfreton Road, Derby, DE21 4AU; and

“**Warranty Period**” has the meaning given in **condition 9**.

## 2.0 APPLICATION OF CONDITIONS

2.1 These Conditions shall apply to and be incorporated into the Contract and shall prevail over any inconsistent terms or conditions attached to, or referred to, in the Purchase Order, acceptance of a Proposal, or any other document issued by the Customer.

2.2 The Customer's signed acceptance of the Proposal or Purchase Order constitutes an offer by the Customer to purchase the Deliverables specified in it on these Conditions.

2.3 All Proposals are submitted by Smith on the basis that no Contract shall come into existence except in accordance with **condition 2.2**. All Proposals are valid for a period of 30 days from their date.

2.5 Any typographical and clerical errors or omissions in any Proposal, Design Work or other document or information issued by Smith are subject to correction without any liability on the part of Smith.

2.6 Any advice or recommendation given by Smith or its employees, contractors or agents about the storage, application or use of the Goods which is not confirmed in writing by an authorised officer of Smith is followed or acted upon entirely at the Customer's risk.

## 3.0 SMITHS OBLIGATIONS

3.1 Smith shall use reasonable endeavours to provide the Deliverables to the Customer in all material respects in accordance with the Purchase Order or Proposal.

3.2 Smith shall use all reasonable endeavours to meet any performance dates specified but any such dates shall be estimates only and time shall not be of the essence for performance of the supply of goods and/or services.

## 4.0 CUSTOMER OBLIGATIONS

4.1 The Customer shall in order to assist in the provision of the Deliverables:

4.1.1 co-operate with Smith in all matters relating to the Services;

4.1.2 provide, in a timely manner, such In-put Material and other information as Smith may reasonably request and ensure that it is accurate in all material respects;

4.1.3 provide, for Smith, its agents, sub-contractors and employees, in a timely manner and at no charge, access to the Customer's premises as reasonably requested by Smith for the purposes of installation of the Goods and/or performance of the services; and

4.1.4 inform Smith of all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer's premises.

4.2 If Smith's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, sub-contractors or employees, Smith shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

4.3 The Customer shall be liable to pay to Smith, on demand, all reasonable costs, charges or losses sustained or incurred by Smith (including any direct or indirect losses) arising from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract.

4.4 Should Smith attend to site for the execution of an annual maintenance agreement or for installation work of an agreed project, and finds that subsequently the site is not prepared, or access is not available, then the customer is liable to pay to Smith, on demand, all reasonable costs, charges or losses sustained or incurred by Smith.

## 5.0 CHANGE CONTROL

5.0 Following Smith's proposal and quotation and the subsequent acceptance of the Customer's purchase order or written authority to proceed, Smith has endeavoured to estimate accurately for the work to be undertaken and priced accordingly with as much care and knowledge to the works required as possible.

If, following inspection of removed parts or cleaning of parts, work is identified as being required as over and above that which could have been reasonably foreseen and proposed, Smith withhold the right to change the Deliverables. Smith shall submit details of the requested change in writing and shall, within a reasonable time, provide a written estimate to the Customer of:

5.1.1 the likely time required to implement the change;

5.1.2 any variations to the Price arising from the change;

5.1.3 the likely effect of the change on the Proposal or Purchase Order;  
And 5.1.4 any other impact of the change on the terms of the Contract.

5.2 Smith may, from time to time and without notice, change the Deliverables in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the Price, or the nature or scope of the Deliverables. If Smith requests a change to the scope of the Deliverables for safety or statutory requirements, the Customer shall not unreasonably withhold or delay consent to it.

5.3 If the Customer wishes Smith to proceed with the change, Smith has no obligation to do so unless and until the Parties have agreed in writing on the necessary variations to the Price and any other relevant terms of the Contract to take account of the change.

5.4 Smith may charge for its time spent in assessing a request for change from the Customer.

## 6.0 PAYMENT

6.1 Unless otherwise stated in the proposal, excluding 'supply only' items, payment for goods shall be 30% on deposit before work is commenced, 70% on completion of the works in question or upon delivery.

Smith withhold the right to invoice for work completed and ready for installation if Customer/site delays, outside of Smith control, cause more than 1 month delay in installation work.

For 'supply only' items payment is 100% before shipment.

6.2 The Deposit shall be paid to Smith within 7 days of the Contract coming into effect pursuant to **condition 2.2**. Deposits are not refundable except at the sole discretion of Smith.

6.3 The total Price shall be paid to Smith (without deduction or set-off) in accordance with the payment timetable set out in the Proposal or Purchase Order (or otherwise when the Deliverables have been supplied).

6.4 Smith reserves the right to charge the Customer additional charges in respect of time spent assessing a request for change pursuant to condition 5.4, any Additional Deliverables; or any costs or expenses suffered or incurred by Smith resulting from any suspension of the Services which has been caused by the Customer's instructions or lack of instructions or any other cause for which the Customer is responsible.

6.5 Unless otherwise agreed in the Proposal or Purchase Order, the Price and any Additional Charges exclude:

6.5.1 any costs associated with the provision of ladders above a height of 20 feet, scaffolding or other access equipment.

6.5.2 the protection of the works from unwelcome intruders, having easy access on scaffolding for example, is the customers responsibility. Any theft or damage to the works whilst scaffolding is raised will incur additional costs if Smith is required to correct or re-do any works.

6.5.3 the provision of an electrical supply and the making of final electrical connections for any installation of the Goods

6.6 The Price, any Additional Charges and any additional costs shall be exclusive of VAT which Smith shall add to its invoices at the appropriate rate.

6.7 The Customer shall pay each invoice submitted to it by Smith, in full and in cleared funds, without counterclaim, deduction or set off within 30 days of receipt. Time for payment shall be of the essence of the Contract.

6.8 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay Smith on the due date, Smith may (at Smith's sole discretion):

6.8.1 charge interest on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of the HSBC Bank plc, accruing on a daily basis and being compounded quarterly until payment is made; or

6.8.2 immediately suspend all provision of the Deliverables until payment of either the total Price or the outstanding amount (at the sole discretion of Smith) has been made in full.

6.9 All sums payable to Smith under the Contract shall become due immediately on its termination, despite any other provision. This **condition 6.11** is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

6.10 Smith may, without prejudice to any other rights it may have, set off any liability of the Customer to Smith against any liability of Smith to the Customer.

## 7.0 DELIVERY

7.1 The Performance Dates shall be estimates only and time of delivery shall not be of the essence of the Contract.

7.2 Unless otherwise stated in these Conditions, Smith shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by Smith's negligence).

7.3 If the Customer is unable to collect or take delivery of the Goods in accordance with the provisions of **condition 7.4** above, then Smith shall be entitled to arrange storage and/or transportation for the Goods on the Customer's behalf at the Customer's expense. All charges for such storage, transport and any insurance shall be payable by the Customer forthwith on request.

7.4 It is the Customer's responsibility to check the Goods for any damage following delivery and the Customer must inform Smith of any such damage within 3 working days of delivery.

7.5 Where risk in the Goods has already passed to the Customer under **condition 8.1**, Smith shall not be responsible for any damage or theft of the Goods in transit but will give the Customer all reasonable assistance in making a claim against the carrier. In the case of damage or theft of the Goods in transit, immediate notice should be given to the carrier and a copy of this notice should also be sent to Smith.

## 8.0 TITLE & RISK

8.1 The Goods are at the risk of the Customer from the time of delivery or deemed delivery.

8.2 Ownership of the Goods shall not pass to the Customer until Smith has received in full (in cash or cleared funds) all sums due.

8.3 Until ownership of the Goods has passed to the Customer, the Customer shall:

8.3.1 hold the Goods on a fiduciary basis as Smith's bailee;

8.3.2 store the Goods separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as Smith's property;

8.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

8.3.4 maintain the Goods in satisfactory condition.

8.4 The Customer may resell the Goods before ownership has passed to it on condition that any sale shall be affected in the ordinary course of the Customer's business at full market value and that any such sale shall be a sale of Smith's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.

8.5 Smith shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from Smith

8.6 Until the ownership of the Goods has passed to the Customer, Smith may at any time require the Customer to deliver up the Goods. If the Customer fails to deliver up the Goods within a reasonable period, Smith may repossess and dismantle, use, sell or otherwise deal with the Goods and may for that purpose, or for the purposes of determining

whether the Goods are held by the Customer, or to inspect them, enter onto any premises where the Goods are or may be stored.

8.7 The Customer shall not pledge or in any way charge by way of security for any indebtedness any Goods which remain the property of Smith.

8.8 Any items, parts or components which are sent to Smith for repair under the Contract are at the risk of the Customer at all times, and the Customer shall keep those items, parts or components insured against loss or damage and third party risks throughout the transportation of those items, parts or components to and from Smith, and the entire period during which those repairs are being carried out by Smith

## 9A WARRANTY: GOODS AND/OR PRODUCTS

9A refers to warranty provided for Goods & Products supplied, including parts and repaired material parts. For warranty for services, including the fitment of such goods, products, parts, repaired material parts and restoration services, refer to 9B.

9.1 Smith warrants that new parts manufactured by Smith carry a ten year guarantee against failure through faulty workmanship or materials.

9.2 Smith warrants that repaired material parts are guaranteed for a period of twelve months.

9.2 Where Smith is not the manufacturer of the Goods or products, including suspension springs and electrical or electronic components, these are excluded from our guarantees, but carry the manufacturers own warranty if available.

9.3 Smith shall not be liable for a breach of the warranty if:

9.3.1 the Customer makes any further use of such Goods or products after informing Smith of the fault;

9.3.2 the defect arises from the In-put Material supplied by the Customer;

9.3.3 the defect arises from fair wear and tear, wilful damage, negligence, abnormal working conditions; or failure to follow Smith's written instructions;

9.3.4 the defect arises because the Customer failed to follow Smith's written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;

9.3.5 the Customer alters or repairs the Goods without the written consent of Smith; or

9.3.6 the Price has not been paid by the due date for payment.

9.4 Subject to **condition 9.3**, if any of the Goods do not conform with the warranty provided, Smith shall at its discretion and expense, repair or replace such Goods (or the defective part) or refund the Price provided that, if Smith so requests, the Customer shall (at Smith's expense) return the defective Goods to Smith.

9.5 If Smith complies with **condition 9.4** it shall have no further liability for a breach of the warranty.

9.6 Unless otherwise agreed, Smith does not undertake to bear the cost of any work involved in removing or reinstating a repaired or new part. Smith will only bear the cost of the part.

9.7 Smith Warranty does not extend to cover the cost of hire of any scaffold or access equipment required.

## 9B WARRANTY FOR SERVICES

9.8 For mechanical pendulum clocks Smith takes no responsibility for 'on-site regulation' on completion of the work carried out by Smith. Full instruction will be given to local personnel upon request.

9.9 Smith warrants that Services will be provided with reasonable skill and care and in accordance with generally recognised commercial and industry practices and standards.

These services include restoration work and the fitment of goods and/or products, parts or repaired parts.

9.10 If, within 2 working weeks of the completion of the Contract, any Services that were performed are found to be in breach of the warranty

contained in **condition 9.9**, Smith will attend to the site to address and within reason, re-perform the Services work where defective.

9.11 This re-performance of services under 9.10 will be performed once. Following this, Smith shall have no further liability to the Customer for the breach of the warranty contained in **condition 9.9** in respect of such Services.

Should a mechanical clock movement continue to be problematic following the re-performance of the services work under 9.10, Smith shall attend the site with a senior manager to assess the issue.

Smith shall provide a written assessment of the issue and Smith shall give an honest opinion as to the options moving forward. No further work, under warranty, shall be delivered free of charge and a costed proposal to rectify any issues shall be delivered to the Customer for their review.

This includes mechanical clocks where Smith has attempted to correct and re-start, including contracts to repair, restore or the fitment of new products and 'stopper' visits.

Smith shall have no further liability to the Customer for the breach of the warranty contained in condition 9.9

### NOTE:

For clarification – Smith does not guarantee that the fitment of new products and/or services work performed to old mechanical clocks will be successful. But Smith, as a recognised leader in the field of mechanical clock service, repair and restoration, will attempt to care for this important artefact with the upmost professionalism. However, following a second site visit to attempt any corrective activity and a subsequent costed proposal of the options moving forward, Smith withhold the right to charge for subsequent corrective work and shall have no further liability to the Customer for the breach of the warranty condition in 9.9.

## 9C ANNUAL SERVICE AGREEMENT (ASA) & CALL-OUT SERVICES

9.12 For customers under the cover of an Annual Service Agreement (ASA), at each ASA visit Smith will clean, adjust and lubricate all normally accessible parts of the clock system and associated equipment.

9.13 Under notification of a 'stopped clock' or request for a call-out visit, Smith will endeavour to attend on site as soon as possible.

9.13.1 This visit will be chargeable if the fault is found to be caused by normal wear and tear, misuse, tampering, neglect, failure of power supply, vandalism or other circumstances beyond Smith control. Also if the fault falls outside of the ASA service practice this will be chargeable.

9.13.2 Smith will endeavour to start a stopped clock but makes no guarantee that this repair or start-up will be sustainable. Should a stopped clock, whether covered by ASA or not, continue to be faulty, Smith will charge for subsequent site attendance unless covered under Product warranty in 9A.

9.14 The provision and fitting of new parts will be chargeable.

9.15 All terms in this whole agreement are applicable to ASA services.

## 10 INTELLECTUAL PROPERTY

10.1 As between the Customer and Smith, all Intellectual Property Rights in the Goods and the Design Work (the "**Rights**") shall be owned by Smith. Smith grants a perpetual and irrevocable non-exclusive licence of the Rights to the Customer on a worldwide basis to enable the Customer to use the Goods and the Design Work for the purposes set out in the Proposal or Purchase Order but for no other purpose whatsoever.

10.2 The Customer shall not grant any sub-licence or assign the benefit or burden of the licence granted at **condition 10.1** in whole or in part without the prior written consent of Smith.

10.3 The Customer acknowledges and agrees that notwithstanding the licence granted at **condition 10.1**, Smith shall not assign to the Customer any Intellectual Property Rights under the Contract.

10.4 As between Smith and the Customer, all Intellectual Property Rights in the In-put Materials shall be owned by the Customer. The Customer licenses all such rights to Smith free of charge and on a non-exclusive basis to such extent and, for such period of time, as may be necessary to enable Smith to provide the Deliverables.

10.5 The Customer shall indemnify Smith against all damages, losses and expenses arising as a result of any action or claim by a third party that any In-put Material (or any part of it) infringes any Intellectual Property Rights of that third party.

## 11 CONFIDENTIALITY

11.1 During the term of the Contract and for a period of 12 months after termination or expiration of the Contract the following obligations shall apply to the party disclosing (the "**Disclosing Party**") any technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and any other confidential information concerning the party's business ("**Confidential Information**") to the other party (the "**Receiving Party**").

11.2 Subject to **condition 11.3**, the Receiving Party:

11.2.1 may not use any Confidential Information for any purpose other than in connection with the Contract;

11.2.2 may not disclose any Confidential Information to any person except with the prior written consent of the Disclosing Party; and

11.2.3 shall make every effort to prevent the use or disclosure of the Confidential Information.

11.3 The obligations of confidence referred to in **condition 11.2** shall not apply to any Confidential Information that:

11.3.1 is in the possession of and is at the free disposal of the Receiving Party or is published or is otherwise in the public domain before its receipt by the Receiving Party in connection with the Contract;

11.3.2 is or become publicly available on a non-confidential basis through no fault of the Receiving Party;

11.3.3 is required to be disclosed by any applicable law or regulation; or

11.3.4 is received in good faith by the Receiving Party from a third party who, on reasonable enquiry by the Receiving Party claims to have no obligations of confidence to the other party to the Contract in respect of it and who imposes no obligations of confidence upon the Receiving Party.

11.4 The obligations of the parties under all provisions of this condition shall survive the expiry of the termination of this agreement for whatever reason.

## 12 LIABILITY

12.1 This **condition 12** sets out the entire financial liability of Smith to the Customer in respect of:

12.1.1 any breach of the Contract;

12.1.2 any use made by the Customer of the Deliverables or any part of them; and

12.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

12.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

12.3 Nothing in these Conditions limits or excludes the liability of Smith for:

12.3.1 death or personal injury resulting from Smith's negligence;

12.3.2 any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by Smith; or

12.3.3 any matter which it would be illegal for Smith to exclude or to attempt to exclude or limit its liability.

12.4 Subject to **condition 12.2** and **condition 12.3**:

12.4.1 Smith's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the Price; and

12.4.2 Smith shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss or corruption of data or information or any other special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

## 13 DATA PROTECTION

The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of Smith in connection with the Contract.

## 14 TERMINATION

14.1 Subject to **condition 14.2** the Contract shall terminate automatically once the Deliverables have been provided in accordance with the Proposal or Purchase Order and all due payments have been made by the Customer under the Contract.

14.2 Without prejudice to any other rights or remedies which either party may have, a party (the "**Terminating Party**") may terminate the Contract without liability to the other party immediately on giving notice to the other party if:

14.2.1 the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of the other party being notified in writing of the breach;

14.2.2 an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party;

14.2.3 an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);

14.2.4 a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets;

14.2.5 the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way;

14.2.6 the other party ceases, or threatens to cease, to trade; or

14.2.7 the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

14.3 On termination of the Contract for any reason:

14.3.1 the Customer shall immediately pay to Smith all of Smith's outstanding unpaid invoices and interest and, in respect of any Deliverables or Additional Deliverables provided but for which no invoice has been submitted, Smith may submit an invoice, which shall be payable immediately on receipt; and

14.3.2 the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

## 15 GENERAL

15.1 Smith shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of Smith or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.

15.2 Subject to **condition 5**, no variation of the Contract or these conditions or of any of the documents referred to in them shall be valid unless it is in writing and signed by both Smith and the Customer.

15.3 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

15.4 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

15.5 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force and if any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.

15.6 Each of the parties acknowledges and agrees that, in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and conditions or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract.

15.7 The Customer shall not, without the prior written consent of Smith, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.8 Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

15.9 A person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act of 1999 to enforce any term of the Contract, but this does not affect any other right or remedy of a third party.

15.10 Notice given under the Contract shall be in writing, sent for the attention of the person and to the address or fax number given in the Contract (or such other address, fax number or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax or sent by pre-paid, first-class post or recorded delivery.

A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of the pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this **condition 15.10** is not within business hours (meaning 9:00 am to 5:30 pm Monday to Friday) the notice shall be deemed to have been received at 9:00 am on the next business day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by fax to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

15.11 The Contract shall be governed by and construed in accordance with the laws of England and Wales and both parties agree to submit to the exclusive jurisdiction

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