

DATE:

September 2020

**A&M EDM LIMITED**

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**TERMS & CONDITIONS**

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## TERMS & CONDITIONS

### 1. Interpretation

#### I. I In these Conditions:

- "A&M"** means A & M EDM Limited whose registered office is at 25 Mornington Road, Smethwick, West Midlands, B66 2JE (registered in England & Wales under number 04548392);
- "Ancillary Costs"** means A&M's charges for transport, packaging, insurance, VAT and any other ancillary costs including those detailed in clauses 4.4 and 4.5 below;
- "Buyer"** means the person who accepts A&M's quotation for the sale of the Goods and/or provision of Services or whose order for the Goods and/or Services is accepted by A&M;
- "Conditions"** means the standard terms and conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and A&M;
- "Contract"** means the contract for the purchase and sale of the Goods and/or for the provision of the Services;
- "Delay"** means any delay or interruption not solely attributable to A&M which results in A&M not being able to deliver the Goods or perform the Services;
- "Delivery Date"** means the date on which the Goods are delivered pursuant to condition 6 or the first date on which the Services are supplied (as appropriate);
- "Goods"** means the goods (including any instalment of the goods or any parts for them), which A&M is to supply in accordance with these Conditions;
- "Intellectual Property"** means any copyrights, letters, patents, know how, inventions, utility models, registered and unregistered designs, trade and service marks, trade names, logos, patent applications, rights in the nature of copyrights and all other similar rights in the Goods and (where applicable) the Services;
- "Pre-existing Materials"** all documents, information and materials provided by A&M relating to the Goods or Services which existed prior to the commencement of the Contract

including computer programs, data, reports, designs and specifications;

**"Price"** means the price for the Goods and Services excluding the Ancillary Costs; and

**"Services"** means the services to be provided by A&M to the Buyer pursuant to these Conditions.

- 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 For the avoidance of doubt, nothing in these Conditions shall confer on any third party any benefit or the right to enforce any term of these Conditions or the Contract.

## **2. Basis of the sale**

- 2.1 These Conditions shall apply to all contracts for the sale of Goods and/or the supply of Services by A&M to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order or similar document. Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by A&M.
- 2.2 All orders for Goods and Services shall be deemed to be an offer by the Buyer to purchase Goods and/or have Services supplied pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods or performance of the Services shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.4 Any advice or recommendation given by A&M 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 A&M is followed or acted upon entirely at the Buyer's own risk, and accordingly A&M shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, acceptance of offer, invoice or other document or information issued by A&M shall be subject to correction without any liability on the part of A&M.
- 2.6 All data containing specifications of weights, dimensions, tolerances, properties and the like which are contained in A&M's catalogues, drawings or other literature are approximate only (or where tolerances are prescribed, to be within those tolerances) as are weights and dimensions of packing or shipments.

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

- 3.1 No order submitted by the Buyer shall be deemed to be accepted by A&M unless and until specific performance or confirmed in writing by A&M's authorized representative.
- 3.2 The Buyer shall be responsible to A&M for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving A&M any necessary information relating to the Goods and Services within a sufficient time to enable A&M to perform the Contract in accordance with its terms.
- 3.3 The quantity, quality and description of and any specification for the Goods and/or Services shall be those set out in A&M's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by A&M).
- 3.4 If the Goods are to be manufactured or any process is to be applied to the Goods by A&M; or if the Goods or Services are to be provided in accordance with a specification or any other document, data information or materials submitted by the Buyer, the Buyer shall indemnify A&M against all loss, damages, costs and expenses awarded against or incurred by A&M in connection with or paid or agreed to be paid by A&M in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or Intellectual Property rights of any other person which results from A&M's use of the Buyer's information.
- 3.5 A&M reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to A&M's specification, which do not materially affect their quality or performance.
- 3.6 No order which has been accepted by A&M may be cancelled by the Buyer except with the agreement in writing of A&M and on terms that the Buyer shall indemnify A&M in full against all loss (including without prejudice to the generality of the foregoing loss of profit), costs (including without prejudice to the generality of the foregoing the cost of all labour and materials ordered, whether used or un-used), damages, charges and expenses incurred by A&M as a result of cancellation.

### **4. Price**

- 4.1 The Price and the Ancillary Costs shall be that contained in A&M's quote or in any current sales literature at the date of acceptance of the order. All Prices and Ancillary Costs quoted are valid for [30 days] only or until earlier acceptance by the Buyer, after which time they may be altered by A&M without giving notice to the Buyer.
- 4.2 A&M reserves the right, by giving notice to the Buyer at any time before the Delivery Date to increase the Price and/or the Ancillary Costs to reflect any increase in the cost to A&M which is due to any factor beyond the control of A&M (such as, without limitation, any foreign exchange fluctuation, currency

regulation, alteration of taxes, levies or 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 or change to the required Services which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give A&M adequate information or instructions.

4.3 Except as otherwise stated under the terms of any quotation provided by A&M, and unless otherwise agreed in writing between the Buyer and A&M, all Prices are given by A&M on an ex works basis, and where A&M agrees to deliver Goods otherwise than at A&M's premises, the Buyer shall be liable to pay A&M's Ancillary Costs.

4.4 For the avoidance of doubt:

4.4.1 the Price is exclusive of any applicable value added tax and all charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall be additionally liable to pay to A&M; and

4.4.2 A&M and/or its agents will be able to perform the Services without Delay and on this basis the Buyer shall be additionally liable to A&M in respect of all costs and expenses arising as a result of a Delay including (without prejudice to the generality of the foregoing) all abortive visits, staff costs, overnight accommodation and reasonable expenses, travelling (by whichever method A&M shall deem appropriate) and any petrol costs; and

4.4.3 all additional costs caused by A&M or its agents working overtime at the request or with the consent of the Buyer shall be charged as an addition to the Price

4.4.4 any quotation provided by A&M shall cover the items in the specification and or drawings only and, unless otherwise expressly stated, does not include any ancillary costs.

4.4.5 unless otherwise expressly stated, any costs incurred by A&M in providing any of the items referred to in this clause 4.4, shall be reimbursed by the Buyer to A&M.

## **5 Terms of Payment**

5.1 A&M may open an account for the Buyer to use A&M's account facilities if the Buyer first provides it bank details and two references acceptable to A&M. Further details in respect of A&M's account facilities are available on request.

5.2 A&M shall be entitled to require payment of part or all of the Price and Ancillary Costs prior to the Delivery Date.

5.3 Subject to clause 5.2.1 and any special terms agreed in writing between the Buyer and A&M, A&M shall be entitled to invoice the Buyer for the Price and the Ancillary Costs on or at any time after the Delivery Date unless in the case

of Goods which are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods or fails to give adequate delivery instructions, in which event A&M shall be entitled to invoice the Buyer for the Price and the Ancillary Costs at any time after A&M has notified the Buyer that the Goods are ready for collection or delivery or (as the case may be) A&M has tendered delivery of the Goods.

- 5.4 The Buyer shall pay the Price and the Ancillary Costs within 30 days of the date of A&M's invoice, and A&M shall be entitled to recover the Price and the Ancillary Costs, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the Price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.5 No payment shall be deemed to have been received until A&M has received cleared funds
- 5.6 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to A&M, A&M shall be entitled to:
  - 5.6.1 cancel the Contract and/or suspend any further deliveries or the provision of Services to the Buyer;
  - 5.6.2 appropriate any payment made by the Buyer to such of the Goods or Services (or Goods or Services supplied under any other contract between the Buyer and A&M) as A&M may think fit (notwithstanding any purported appropriation by the Buyer); and
  - 5.6.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 8 per cent per annum above the base rate from time to time of Nat West Bank plc, from the due date until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest). A&M reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.7 A&M reserves the right to require payment for Goods to be supplied outside mainland Britain to be in the form of an agreed form of Documentary Credit

## **6. Delivery**

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at A&M's premises at any time after A&M has notified the Buyer that the Goods are ready for collection or, by A&M delivering the Goods at the Buyer's premises or, if some other place for delivery is agreed by A&M, by A&M delivering the Goods to that place, or if the Buyer wrongfully fails to take delivery of the Goods or has provided incorrect information, then to the place where A&M has tendered delivery of the Goods
- 6.2 Any dates quoted for delivery of the Goods or performance of the Services are approximate only and A&M shall not be liable for any Delay in delivery of the

Goods however caused. Time for delivery or performance shall not be of the essence of the Contract unless previously agreed by A&M in writing. The Goods may be delivered or the services performed by A&M in advance of the quoted Delivery Date upon giving reasonable notice to the Buyer. If no dates are so specified, delivery or performance shall be within reasonable time.

- 6.3 Where delivery of the Goods is to be made by A&M in bulk, A&M reserves the right to deliver up to 10 per cent more or 10 per cent less than the quantity ordered without any adjustment in the price, 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 A&M 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 A&M fails to deliver the Goods (or any instalment) for any reason other than any cause beyond A&M's reasonable control or the Buyer's fault, and A&M is accordingly liable to the Buyer, A&M'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 A&M 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 A&M's fault) then, without limiting any other right or remedy available to A&M, A&M may:
  - 6.6.1 store the Goods until actual delivery whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance); 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.
- 6.7 A&M shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing the same, or any failure to perform any of the Services, if the delay or failure was due to any cause beyond A&M's reasonable control.

## **7. Non-delivery**

- 7.1 The quantity of any consignment of Goods as recorded by A&M on despatch from A&M's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

72 A&M shall not be liable for any non-delivery of Goods (even if caused by A&M's negligence) unless the Buyer gives written notice to A&M of the non-delivery within 7 days of the date when the Goods would in the ordinary course of events have been received.

73 Any liability of A&M for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

## **8. Risk and property in the Goods**

8.1 Risk of damage to or loss of the Goods shall pass to the Buyer:

8.1.1 in the case of Goods to be delivered at A&M's premises, at the time when A&M notifies the Buyer that the Goods are available for collection; or

8.1.2 in the case of Goods to be delivered otherwise than at A&M's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when A&M has tendered delivery of the Goods.

8.1.3 in respect of deliveries made in accordance with clause 8.1.2 above and notwithstanding any other provision contained in these Conditions, a transportation insurance policy shall be taken only at the Buyer's written request and at the Buyer's expense.

8.2 Notwithstanding delivery and passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until A&M has received in cash or cleared funds payment in full of the Price and the Ancillary Costs and payment for all other goods or services previously or subsequently supplied by A&M to the Buyer whereupon such title shall pass to the Buyer.

8.3 Until such time as the property in the Goods passes to the Buyer it shall keep the Goods separate from those of the Buyer and third parties and properly and safely stored, protected and insured and identified as A&M's property, but shall (subject to clause 8.4 hereof) be entitled to use the Goods in the ordinary course of its business.

8.4 The right to use the Goods referred to in clause 8.3 shall automatically cease in the event of the appointment in respect of the Buyer of a receiver or administrative receiver or the presentation of a petition for the liquidation or administration of the Buyer and such right may also be revoked on five days written notice given to the Buyer if the Buyer shall be in default by more than seven days in the payment of any sum due to A&M.

8.5 Until such time as the property in the Goods passes to the Buyer A&M its employees or agents shall be entitled at any time to require the Buyer to deliver up the Goods to A&M, 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.

- 8.6 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 A&M, but if the Buyer does so all moneys owing by the Buyer to A&M shall (without prejudice to any other right or remedy of A&M) forthwith become due and payable.
- 8.7 For the avoidance of doubt, the Intellectual Property and the Pre-Existing Materials shall remain at all times the property of A&M.

## **9. Warranties and liability**

9.1 Subject to the conditions set out below A&M warrants:-

- 9.1.1 that the Goods will correspond with their specification at the time of delivery and will be of satisfactory quality for a period of six months from the date on which the Goods are supplied; and
- 9.1.2 that the Services will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Contract.

9.2 The above warranty is given by A&M subject to the following conditions:

- 9.2.1 A&M shall be under no liability if it is established by A&M that some part of the material used in manufacture was defective;
- 9.2.2 A&M shall be under no liability unless the Goods have been returned carriage paid to A&M or the manufacturer if the same has been requested;
- 9.2.3 A&M shall be under no liability in respect of any defect in the Goods or Services arising from any drawing, design or specification supplied by the Buyer;
- 9.2.4 A&M 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 A&M's instructions (whether oral or in writing) or misuse or alteration or repair of the Goods without A&M's approval;
- 9.2.5 A&M shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the Price and all Ancillary Costs have not been paid by the due date for payment; and
- 9.2.6 the above warranty does not extend to parts, materials or equipment not manufactured by A&M, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to A&M.

- 9.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 9.4 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.
- 9.5
- 9.5.1 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or Services or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to A&M within three days from the Delivery Date but in any event A&M shall have no liability to the Buyer after the expiration of one week of the Delivery Date or collection or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify A&M accordingly, the Buyer shall not be entitled to reject the Goods and A&M shall have no liability for such defect or failure, and the Buyer shall be bound to pay the Price and the Ancillary Costs as if the Goods had been delivered and services performed in accordance with the Contract.
- 9.5.2 Where the Buyer gives appropriate notice to A&M under clause 9.5.1 above it shall preserve the Goods intact and as delivered for a period of fourteen days after receipt by A&M of the written notification, during which period A&M, its agents or servants shall be given access to the Buyer's premises to investigate the complaint.
- 9.5.3 If the Buyer fails to comply with condition 9.5.2 it shall be deemed to have waived all or any claims, actions or rights or remedies it may have in respect of the Goods.
- 9.6 Where any valid claim in respect of the supply of either the Goods or the Services which is based on any defect in the quality or condition or the failure of the Goods or Services to meet specification is notified to A&M in accordance with these Conditions, A&M shall be entitled to replace the Goods or re-supply the Services (or the part in question) free of charge or, at A&M's sole discretion, either:-
- 9.6.1 if the Price and the Ancillary Costs have been paid, refund to the Buyer the Price and the Ancillary Costs (or a proportionate part of the Price and the Ancillary Costs) or;
- 9.6.2 if the Price and the Ancillary Costs have not been paid, allow the Buyer to reduce the Price and the Ancillary Costs only to the extent that it relates to the item that is the subject of the claim but A&M shall have no further liability to the Buyer

- 9.7 Except in respect of death or personal injury caused by A&M's negligence, A&M shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of A&M, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or Services or the use or resale of the Goods by the Buyer, and the entire liability of A&M under or in connection with the Contract shall not exceed the Price and the Ancillary Costs except as expressly provided in these Conditions.
- 9.8 A&M shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of A&M's obligations in relation to the Goods or Services, if the delay or failure was due to any cause beyond A&M's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond A&M's reasonable control:
- 9.8.1 Act of God, explosion, flood, tempest, fire or accident;
- 9.8.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 9.8.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 9.8.4 import or export regulations or embargoes;
- 9.8.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of A&M or of a third party);
- 9.8.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 9.8.7 power failure or breakdown in machinery.

## **10. Indemnity**

- 10.1 If any claim is made against the Buyer that the Goods or Services provided infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any goods, drawing, design or specification supplied by the Buyer, A&M shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:
- 10.1.1 the Buyer shall immediately inform A&M of all such claims;
- 10.1.2 A&M is given full control of any proceedings or negotiations in connection with any such claim;

- 10.1.3 the Buyer shall give A&M all reasonable assistance for the purposes of any such proceedings or negotiations;
- 10.1.4 except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of A&M (which shall not be unreasonably withheld);
- 10.1.5 the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);
- 10.1.6 A&M shall be entitled to the benefit of, and the Buyer shall accordingly account to A&M for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
- 10.1.7 without prejudice to any duty of the Buyer at common law, A&M shall be entitled to require the Buyer to take such steps as A&M may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which A&M is liable to indemnify the Buyer under this clause.

## **11. Intellectual property rights**

- 11.1 As between the Buyer and A&M, all Intellectual Property Rights and all other rights in the Goods and the Pre-existing Materials shall be owned by A&M. Subject to condition 11.2, the Supplier licenses all such rights to the Buyer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Buyer to make reasonable use of the Goods and the Services. If the Contract terminates, this licence shall automatically terminate.
- 11.2 The Buyer acknowledges that, where A&M does not own any Pre-existing Materials, the Buyer's use of rights in Pre-existing Materials is conditional on A&M obtaining a licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle A&M to license such rights to the Buyer.

## **12. Insolvency of Buyer**

- 12.1 This clause applies if:
- 12.1.1 the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 12.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

12.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

12.1.4 A&M reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

12.2 If this clause applies then, without prejudice to any other right or remedy available to A&M, A&M shall be entitled to cancel the Contract or suspend any further deliveries or performance of the Services under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the Price and the Ancillary Costs shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### **13. Variation**

13.1 A&M may, from time to time and without notice, change the Goods or Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Goods or Services. If A&M requests a change to the Goods or Services for any other reason, the Buyer shall not unreasonably withhold or delay consent to it.

13.2 Subject to conditions 3.5 and 13.1, 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 or on behalf of each of the parties.

### **14. Waiver**

14.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

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

### **15. Severance**

15.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.

15.2 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

**16. Entire agreement**

- 16.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 16.2 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract) as expressly provided in the Contract.
- 16.3 Nothing in this condition shall limit or exclude any liability for fraud.

**17. General**

- 17.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Any such notice shall be deemed to be served:
- 17.1.1 if sent by pre-paid first class post on the third day after posting;
- 17.1.2 if sent by fax transmission to the recipients fax number, on transmission.
- 17.2 For the avoidance of doubt, notice given under these Conditions shall be validly served if sent by e-mail.
- 17.3 No waiver by A&M of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 17.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 17.5 The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the exclusive jurisdiction of the English courts.