

The Buyer's attention is specifically drawn to the following clauses: clause 6.3 (advice re installation), clause 8.8 (order fulfilment deliver delays), clause 13 (limitation of liability and manufacturer's warranty) and clause 18.1 (indemnity) of these Conditions of sale.

1. DEFINITIONS

1.1 In these Conditions, the following definitions apply:

- 1.1.1 **Adaptions:** any adaptions carried out to the Goods at the request of the Buyer and **Adapted** shall be construed accordingly.
 - 1.1.2 **Bespoke Goods:** any Goods that have been Adapted, or any goods which have been supplied specifically at the request of the Buyer which are not routinely supplied by the Seller or are not on the Seller's product list from time to time.
 - 1.1.3 **Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
 - 1.1.4 **Buyer:** the person, firm or company who purchases Products from the Seller as identified in the Order Acknowledgement.
 - 1.1.5 **Conditions:** the terms and conditions set out in this document unless amended in accordance with clause 19.5.
 - 1.1.6 **Contract:** the contract between the Seller and the Buyer for the sale and purchase of the Products, in accordance with these Conditions, the Order Acknowledgement and any variation agreed pursuant to clause 19.5.
 - 1.1.7 **Data Protection Legislation:** any legislation applicable in the United Kingdom relating to the privacy of personal data, including but not limited to the UK General Data Protection Regulation, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (as amended).
 - 1.1.8 **Force Majeure Event:** any event beyond a party's control including the following: fire, flood or other natural disaster, epidemic and/or pandemic, any form of industrial action including strikes and lock outs, governmental restrictions and/or regulations, terrorist attack, civil commotion or unrest, imposition of sanctions or embargo, failure of utilities, nuclear chemical or biological contamination or sonic boom.
 - 1.1.9 **Goods:** any goods supplied by the Seller which form part of the Seller's standard product list from time to time.
 - 1.1.10 **Intellectual Property Rights:** all analytical methods, rights to inventions, patents, copyright and related rights, industrial property rights, rights in software, (including source code), trademarks, business names and domain names, rights in get-up, goodwill, the right to sue for passing off, rights in designs, database rights, rights to use and protect the confidentiality of confidential information (including know-how), trade secrets and all other intellectual property rights in each case whether registered or unregistered and including all applications and rights to apply for and be granted renewals or extensions of, and rights to claim priority from such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
 - 1.1.11 **Order:** the Buyer's order for the Products, as set out in the Buyer's purchase order, in acceptance of the Seller's Quotation.
 - 1.1.12 **Order Acknowledgement:** the Seller's written acceptance of the Buyer's Order, either by a document headed "Order Acknowledgement" or via email acceptance from the Seller.
 - 1.1.13 **Products:** Goods and/or Bespoke Goods (as the case may be) the goods to be supplied pursuant to the Contract as described in the Order Acknowledgement.
 - 1.1.14 **Seller:** Elite Fasteners Limited, a company registered in England and Wales with registration number 07124462.
 - 1.1.15 **Seller's Quotation:** the Seller's written scope and specification of the Products and the commercial terms to be supplied to the Buyer and attached to the Order Acknowledgement.
 - 1.1.16 **Specification:** the specification for the Products by reference to product number(s) or data sheet(s) (as the case may be), set out in the Order Acknowledgement.
 - 1.2 (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). (b) A reference to a statute or statutory provisions is a reference to such statute or statutory provisions as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted. (c) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- ## 2. BASIS OF CONTRACT
- 2.1 The Order constitutes an offer by the Buyer to purchase the Products in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order and any stipulated Specification are true, complete and accurate and, are suitable for its requirements. The Order shall only be deemed to be accepted when the Seller issues an Order Acknowledgement, at which point the Contract shall come into existence.
 - 2.2 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer may seek to impose or incorporate, or which are implied by, trade, custom, practice or course of dealing. Any terms implied by statute are, to the fullest extent permitted by law, excluded from the Contract.
 - 2.3 The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract. All other terms and conditions are expressly excluded.
 - 2.4 Any drawings, models, descriptive matter, or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's catalogues, brochures, website or proposals are produced for the sole purpose of giving an approximate idea of the Products. They shall not form part of the Contract nor shall they have any contractual force.
 - 2.5 In the event of any conflict or inconsistency between these Conditions and the other documents included in the Contract, such conflict or inconsistency shall, subject to any contrary written agreement of the parties, be construed in the following order of priority: (a) any variations agreed pursuant to clause 19.5; (b) the Order Acknowledgement; (c) these

Conditions; and (d) any other document referred to in the Order Acknowledgement, cancellation and replacement products

- 2.6 The Buyer may only end the Contract and cancel an order for Products, subject to the Seller's prior written consent. If consent is given, the Buyer shall be liable to the Seller for all losses, costs, expenses, administration charges and liabilities suffered or incurred by the Seller as a result of such cancellation. In the case of Bespoke Goods the Buyer acknowledges that the Seller will not be able to resell the Bespoke Goods and accordingly the Buyer shall therefore be liable for the full cost of the Bespoke Goods, together with any other losses, liabilities, administration charges, costs and expenses suffered or incurred by the Seller (**Losses**). Such Losses shall be payable on demand.
 - 2.7 If the Seller permits the Buyer to cancel an order for Products and exchange for replacement or other Products, in addition to the provisions of clause 2.6 above, the Buyer expressly acknowledges and agrees to pay the re-stocking charge as advised by the Buyer, which shall be payable on demand.
 - 2.8 If the Buyer's requested Products are not available, the parties may agree that the Seller will supply equivalent or replacement Products. Where such an agreement is reached, the parties shall agree any changes in accordance with the provisions of clause 19.5.
- ## 3. PRODUCTS
- 3.1 Subject to clause 3.2 below, the Products are described in the Order Acknowledgement.
 - 3.2 The Seller reserves the right to amend the Specification and increase the price quoted in the Order Acknowledgement in the following circumstances: (a) If required by any applicable statutory or regulatory requirements; (b) in the event that any information supplied to the Seller by the Buyer is untrue, incomplete and/or inaccurate; (c) in respect of any failures delays caused by or attributable to the Buyer, its employees, agents or contractors; (d) any factor or circumstances beyond the Seller's control; (e) any changes requested by the Buyer pursuant to clause 19.5; or (f) any increases in: production costs, raw materials, taxes, levies or duties.
- ## 4. PRODUCTS SUPPLIED ON A CALL OFF BASIS
- 4.1 Any Products supplied on a call off basis shall be as described in the Order Acknowledgement.
 - 4.2 The Buyer shall be obligated to provide such forecasts and information as required by the Seller to enable the Seller to manage the supply of the Products.
 - 4.3 The Products shall be called off by the Buyer by giving the Seller not less than five Business Days prior written notice (**Call Off Notice**). The Call of Notice shall specify the quantities and specifications of the Products required and the proposed date of delivery or collection (as the case may be). Any date specified in the Call Off Notice shall be approximate and time for delivery or collection (as the case may be) shall not be of the essence. The Buyer shall supply such additional information as may be reasonably required by the Buyer to enable the Buyer to supply the Products, as per the Call Off Notice.

If the Buyer has not called off all the Products by the date specified by the Seller in the Order Acknowledgement (**Longstop Call Off Date**), without prejudice to any other rights or remedies the Seller may have: (a) the Seller may invoice for the full amount of the Products still in stock (**Stock Products**). Such invoice shall be immediately due and payable; and/or (b) the Seller may charge storage costs, administrative costs and other costs, expenses and other losses suffered or incurred by the Seller as a result of the Buyer not calling off the Products by the Longstop Call Off Date (such costs, expenses and losses being payable on demand); and/or (c) the Seller may dispose of some or all of the Stock Products and claim all costs, expenses and other losses suffered or incurred by the Seller as a result of such disposal (such costs, expense and other losses being payable on demand).
- ## 5. BUYER'S OBLIGATIONS AND WARRANTIES
- The Buyer warrants and undertakes to the Seller that: (a) all information supplied by the Buyer to the Seller is true, complete and accurate in all respects; (b) it shall co-operate with the Seller at all times in relation to the supply of the Products; (c) any Specification is suitable for the Buyer's requirements, fit for the Buyer's intended purpose(s) and, is in compliance with all applicable laws; and (d) the Buyer shall afford the Seller all access to its premises and accommodation as necessary, to enable the Supplier to supply the Products.
- ## 6. INSPECTION AND INFORMATION SUPPLIED WITH THE PRODUCTS
- 6.1 (a) The only checks to be carried out by the Seller shall be the Seller's standard in house quality control checks. The Seller shall have no responsibility to perform any other checks or tests unless the parties agree otherwise in writing in the Order Acknowledgement. For the avoidance of doubt, no certificates of conformity or material certificates will be provided unless the Seller has agreed to do so in writing at the time the order is placed. (b) The Products shall be deemed to conform with the Specification and are fit for the general purpose for which they were manufactured if they have passed the Seller's in house quality control checks.
 - 6.2 Notwithstanding clause 6.1, any data sheets supplied with the Products (if any) shall be conclusive evidence that the Products comply with the Specification, save in the case of manifest error.
 - 6.3 If a representative of the Seller attends site to check the installation of a sample of the Products, any statements or representations made (whether oral or in writing), are advisory only and the Seller shall have no liability in respect of statements or representations relied upon by the Buyer or any of the Buyer's representatives, agents or contractors.
- ## 7. TOLERANCES
- 7.1 The Buyer shall not be entitled to reject the Products if: (a) the Seller delivers 10% more or less than the quantities ordered, but a pro rata adjustment shall be made to the Seller's invoice to which the Products relate, following receipt of evidence satisfactory to the Seller; and/or (b) the size/ dimensions of the Products vary in accordance with the tolerance(s) specified as stated in the Order Acknowledgement.
- ## 8. DELIVERY
- 8.1 Unless otherwise agreed in writing, delivery of the Products is Ex Works, Intercro Terms 2022.
 - 8.2 Notwithstanding that delivery is Ex Works, the Seller may, at the Buyer's written request and expense, arrange to pack and deliver the Products on terms to be agreed with the Buyer.
 - 8.3 Delivery dates are based upon the Seller's acceptance of the Order, deposit or pro-forma payment and, where required, receipt of an irrevocable Letter of Credit. Time for delivery shall not be of the essence.
 - 8.4 The Seller shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other information and/or instructions that are relevant to the supply of the Goods.
 - 8.5 If the Buyer fails to collect or take delivery of the Products within 5 Business Days of the Seller notifying the Buyer that the Products are ready then, except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the

- Contract, delivery of the Products shall be deemed to have been completed at 9.00 am on the 5th Business Day after the day on which the Seller notified the Buyer that the Products were ready and the Seller shall store the Products until despatch, or sale in accordance with clause 8.6, takes place, and charge the Buyer for the costs of storage and any expenses (including insurance) otherwise incurred.
- 8.6 If 20 Business Days after the day on which the Seller notified the Buyer that the Products were ready for delivery the Buyer has not taken delivery of them, the Seller may resell or otherwise dispose of part or all of the Products. The Seller will be entitled to deduct and retain its storage and selling costs, any exchange rate losses, any loss of profit and any other losses that result from the Buyer's breach from any monies paid by the Buyer to the Seller. The Buyer will remain liable to the Seller for any remaining sums due. The Seller will account to the Buyer for any excess monies, if any, held by it after all deductions have been made.
- 8.7 The Seller shall be entitled to deliver the Products by instalments, which shall be invoiced and paid for separately by the Buyer.
- 8.8 Where the Seller acts as an order fulfilment service for the Buyer, the Seller acknowledges and agrees that the Buyer shall have no liability whatsoever or howsoever arising in connection with any delays to deliver the Products.
- 8.9 The timetable for the supply of any Products shall be as set out in the Order Acknowledgment. Time for supply shall not be of the essence.
- 9. SELLER WARRANTIES**
- 9.1 Subject to the limitations and/or exclusions set out in these Conditions, the Seller warrants that the Products shall at the date of delivery: (a) conform in all material respects with the Specification; (b) be free from material defects in workmanship; and (c) be fit for the general purpose for which they were designed and manufactured.
- 9.2 Subject to the provisions of clause 9.4 and provided: (a) the Buyer gives written notice to the Seller within 7 days following the delivery of the Products, that some or all of the Products do not comply with the warranty set out in clause 9.1; and (b) the Seller is given the opportunity to examine or test the Products as it sees fit; and (c) the Buyer (if asked to do so by the Seller), returns such Products to the Seller's place of business at the Buyer's cost, then the Seller shall, subject to its determination that the Products are defective (acting reasonably) and at its option, repair, re-work or replace the defective Products or, agree with the Buyer that they may repair the Products, subject to the parties agreeing the costs of any re-works or repairs.
- The Seller shall not be liable for the Products' failure to conform with the warranties set out at clauses 9.1 if: (a) the damage and/or defects arise through no fault of the Seller; (b) the Buyer makes further use of the Products after giving notice in accordance with clause 9.2; (c) the defect arises because the Buyer failed to follow the Seller's oral or written instructions (including but not limited to any manufacturer's instructions) as to the storage, installation, use, operation, or maintenance of the Products; any applicable law or codes of practice in relation to the installation, use, storage, operation or maintenance of the Products (**Instructions**), and/or and good trade practice regarding the Instructions; (d) the defect arises as a result of the Seller following any drawing, design or specification supplied by the Buyer; (e) the Buyer, or any third party, adjusts, alters, modifies or repairs such Products without the prior written consent of the Seller; and/or (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, abnormal storage, improper installation (other than where the Seller carries out the installation) and/or abnormal operating conditions including extremes of temperature, moisture, dirt or corrosive matter.
- 9.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.4 These Conditions shall apply to any repaired or replacement Products supplied by the Seller.
- 9.5 Subject to compliance with the time limit set out at clause 9.2 (a), upon receipt of a warranty claim the Seller shall at its discretion and without undue delay, repair or replace the Products. The Buyer shall not be entitled to seek any other remedy or relief.
- 10. TITLE AND RISK**
- 10.1 Risk in the Products shall pass to the Buyer at the point of loading unless otherwise expressly agreed by the parties in writing.
- 10.2 Title to the Products shall not pass to the Buyer until the Seller has received payment in full, in cleared funds, for the Products.
- 10.3 Until title to the Products has passed to the Buyer, the Buyer shall: (a) hold the Products on a fiduciary basis as the Seller's bailee; (b) store the Products separately from all other Products held by the Buyer so that it remains readily identifiable as the Seller's property; (c) not remove, deface or obscure any identifying mark on or relating to the Products; (d) keep and maintain the Products in the same condition it was supplied to the Buyer and keep it insured for its full replacement value, against all risks for its full price from the date of delivery; and (e) notify the Seller immediately if it becomes subject to any of the events listed in clause 12.
- 10.4 If before title to the Products passes to the Buyer the Buyer becomes subject to any of the events listed in clause 12, or the Seller reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, and without limiting any other right or remedy the Seller may have, the Seller may at any time require the Buyer to deliver up the Products and, if the Buyer fails to do so promptly, enter the premises of the Buyer or of any third party where the Goods is stored in order to recover it.
- 11. PRICE AND PAYMENT AND BUYER CHECKS**
- 11.1 Subject to the provisions of clause 3.2, the price of the Products shall be the price set out in the Order Acknowledgement or, if no price is quoted, the price set out in the Seller's published price list in force at the date of delivery. Payment shall be made in GBP unless agreed otherwise. The Seller shall be entitled to increase the price of the Products at any time upon giving the Buyer written notice due to any of the following matters, facts or circumstances: (a) a factor beyond the Seller's control (including foreign exchange fluctuations and increases in taxes and duties); (b) any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.
- 11.2 The price of the Products is exclusive of amounts in respect of duties, import and export taxes, licences, value added tax (including any similar, replacement or additional taxes) (**Taxes**). The Buyer shall, on receipt of a valid invoice from the Seller for any such Taxes, pay to the Seller such additional amounts in respect of those Taxes as are chargeable on the supply of the Products or its installation (if applicable).
- 11.3 Unless otherwise stipulated in the Order Acknowledgement, payment shall be made in accordance with the payment terms set out in the Seller's Quotation. The Buyer shall pay the invoice in full and in cleared funds net 30 days from the invoice date. The Seller shall be entitled to charge interest on a daily basis at a rate of 4% per annum above the Bank of England base rate from the date payment was due until the date payment of the overdue amount is received in cleared funds. Where the Buyer's place of business is outside the UK, payment shall be made by a confirmed irrevocable Letter of Credit in accordance with clause 11.5.
- 11.4 The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Seller in order to justify withholding payment of any such amount in whole or in part. The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.
- 11.5 Any Letter of Credit will be irrevocable, allow partial shipments, be issued and confirmed by an international bank acceptable to the Seller and payable on sight at the counter of a bank nominated by the Seller against presentation of documentation agreed by the Seller prior to its issue. All bank charges incurred in obtaining and administering a Letter of Credit will be payable by the Buyer.
- 11.6 The Seller reserves the right to perform such checks on the Buyer as it sees fit to establish the creditworthiness of the Buyer. The Seller reserves the right to require the Buyer to pay on a pro forma basis.
- 11.7 Without prejudice to clause 11.5, the Seller may at its election require the Buyer to provide additional security for the payments due under the Contract in the form of a group or associated company guarantee or on demand cash backed performance bond.
- 12. BUYER'S INSOLVENCY**
- If the Buyer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits its inability to pay its debts, or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or makes a proposal for or enters into any compromise or arrangement with its creditors, or steps are taken in connection with the winding up of the Buyer or the appointment of an administrator, or the Buyer suspends, ceases or threatens to suspend or cease any part of its operations, or the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy then, without limiting any other right or remedy available to the Seller, the Seller may cancel or suspend all further deliveries under the Contract without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due. In the event the Buyer is an individual or a partnership the events listed in this clause 12 shall be interpreted accordingly.
- 13. LIMITATION OF LIABILITY AND MANUFACTURER'S WARRANTY**
- 13.1 Nothing in these Conditions shall limit or exclude either party's liability for: (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); (b) fraud or fraudulent misrepresentation; or (c) any other liability which cannot be limited or exclude as a matter of law.
- 13.2 Subject to clause 13.1: (a) the Seller shall under no circumstances be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of savings or loss of opportunity, loss of business, loss of contracts or any other indirect, special, consequential, punitive, exemplary or incidental loss or damage, costs, expenses or other claims arising under or in connection with the Contract; and (b) the Seller's total aggregate liability to the Buyer in respect of all liabilities arising under or in connection with the Contract, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty, or otherwise, shall in no circumstances exceed, in aggregate, the price paid by the Buyer for the Products to which the claim(s) relate; and (c) the Seller shall have no liability to the Buyer where the Seller has relied on the Buyer's information and/or any Specification supplied to the Seller by the Buyer.
- 13.3 Subject to the provisions of clause 13, the Buyer shall, subject to the Seller's compliance with the terms of the Contract, afford the Seller the benefit of any manufacturer's warranty.
- 14. INTELLECTUAL PROPERTY RIGHTS**
- 14.1 Title in and to any Intellectual Property Rights created by the Seller whether before or after the date of the Contract shall at all times vested in the Seller or the Seller's licensors (as the case may be) (**Seller IPR**).
- 14.2 The Buyer is hereby granted a non-exclusive, royalty-free licence to use the Seller IPR to the minimum extent necessary to use the Products in the course of its business.
- 15. FORCE MAJEURE**
- Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. Should the Force Majeure Event exceed a continuous period of 180 days, then either party may at any time thereafter, and provided the Force Majeure Event is continuing, give written notice to the other to terminate the Contract.
- 16. TERMINATION**
- 16.1 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if 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 30 days of receipt of notice in writing of the breach.
- 16.2 Without limiting its other rights and remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on any due date for payment.
- 16.3 Termination or expiry of the Contract, however arising, shall not affect the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.
- 17. CONFIDENTIAL INFORMATION AND DATA PROTECTION LEGISLATION**
- 17.1 Any plans, drawings, designs or documentation whether in paper or electronic format supplied by the Seller or its representative to the Buyer and any information communicated to the Buyer by the Seller relating to the Contract and/or the Seller or the Seller's business, shall be kept confidential by the Buyer. On request, the Buyer shall immediately return the Seller's confidential information to the Seller without retaining any copies of the same. This clause 17.1 shall survive the termination of the Contract.

- 17.2 The Buyer and the Seller shall at all times comply with their respective obligations under the Data Protection Legislation and enter in appropriate agreements relating to the sharing and processing of personal data as may be appropriate in the circumstances.
- 18. COMPLIANCE WITH LAWS AND POLICIES**
- 18.1 (a) The Buyer shall, in performing its obligations under the Contract, comply with all applicable laws, statutes and regulations from time to time in force. (b) The Buyer shall indemnify the Seller against any losses, liabilities, damages, fines, costs (including legal fees) and expenses incurred by or awarded against the Seller as a result of a breach of this clause 18. (c) The Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer commits a breach of this clause 18, such a breach being deemed to be a material breach.
- 19. GENERAL**
- 19.1 **Assignment and subcontracting** The Seller may at any time assign, transfer, charge, or subcontract its rights or obligations under the Contract. The Buyer may not assign, transfer, charge, or subcontract all or any of its rights or obligations under the Contract without the prior written consent of the Seller, such consent not to be unreasonably refused or delayed.
- 19.2 **Notices** Any notice to be given under the Contract shall be in writing, addressed to the other party at its normal place of business and shall be sent by, pre-paid first class post, delivered by commercial courier or by email. A notice shall be deemed to have been received if sent by pre-paid first class post at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed if delivered before p.m. or on the next Business Day if delivered after p.m.; or, if sent by email, at the time of receipt, save that if the time of receipt is either before 9 am or after 5:00 pm the time of receipt shall be 9 am on the next Business Day.
- 19.3 **Severance and waiver.** (a) If a court or other competent authority finds that any provision of the Contract (or part provision) is invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. (b) A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict its further exercise.
- 19.4 **Third party rights** Save for any company which is a group company of the Seller (who may enforce the Contract in full) , a person who is not a party to the Contract shall not have any rights under or in connection with it.
- 19.5 **Variation and Change Control** Except as set out in these Conditions, any variation to the Contract shall only be binding when agreed in writing and signed by the Seller. If a party wishes to make any variation or change to the Products, it shall notify the other party in writing as soon as practicable, setting out the nature of the proposed changes and any additional costs to be incurred (**Change Control Request**). Following receipt of a Change Control Request, the parties shall contact each other within five Business Days to discuss the proposed changes. If the changes are agreed, the Contract will be varied to the minimum extent necessary to accommodate the changes. If the parties cannot agree the changes, the Contract will continue on the same terms, without any variations.
- 19.6 **Governing law and jurisdiction** The Contract, and any dispute or claim arising out of or in connection with it (both contractual and non-contractual) shall be governed by, and construed in accordance with, English law. The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales to settle any dispute or claim (both contractual and non-contractual).