

**J. BRAND LIMITED TERMS AND CONDITIONS
OF SUPPLY OF EQUIPMENT AND/OR SERVICES**

1. BACKGROUND

- (A) The Customer has requested J. Brand to supply such services and/or equipment (if any) to the End User as is specified in the Order. The Customer has contracted to provide such services and/or equipment to the End User and has in turn contracted with J. Brand to so provide such services and/or equipment.
- (B) J. Brand provides such services and/or equipment to the End User in accordance with these Conditions.

2. INTERPRETATION

2.1 Definitions

In these Conditions, the following definitions apply:

Commencement Date:	has the meaning set out in clause 3.2;
Conditions:	these terms and conditions as amended from time to time in accordance with clause 16.8;
Contract:	the contract between J. Brand and the Customer for the supply of Equipment and/or Services to the End User in accordance with these Conditions;
Customer:	the person or firm who contracts with J. Brand whereby J. Brand supplies the Services and/or Equipment to the End User;
Deliverables:	the deliverables set out in the Order (if any);
Delivery Location:	has the meaning set out in clause 5.1;
Equipment:	the equipment (or any part of them) set out in the Order (if any);
Equipment Specification:	any specification for the Equipment, including any relevant plans or drawings, that are supplied by J. Brand to the Customer and/or the End User as appropriate;
End User:	the party to whom the Services and/or Equipment are to be supplied as set out in the Order;
Force Majeure Event:	has the meaning given to it in clause 16.1(a);

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, database right, topography rights, moral rights, 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;
J. Brand:	J. Brand Limited, registered in England and Wales with company number 00279524 whose place of business is at 2 Margaret Street, London, W1W 8RD (and whose registered office is at Cumnor Road, Wotton, Oxford, OX1 5JW);
Order:	the Customer's order for the supply of Equipment and/or Services to the End User, as set out in J. Brand's quotation as accepted by the Customer;
Services:	the services, including the Deliverables, supplied by J. Brand to the End User as ordered by the Customer as set out in the Service Specification.
Service Specification:	the description or specification for the Services provided in writing by J. Brand to the Customer;
Supplier Materials:	has the meaning set out in clause 9.1(g).

2.2 Construction

In these Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision 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;
- (d) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to writing or written includes faxes and e-mails.

- 2.3 These Conditions apply to services and equipment supplied by J. Brand. If the Order specifies that only services are to be supplied and not Equipment, or vice versa, the Conditions shall be interpreted accordingly.

3. BASIS OF CONTRACT

- 3.1 The Order constitutes an offer by the Customer to purchase Services and/or Equipment in accordance with these Conditions.
- 3.2 The Order shall only be deemed to be accepted when J. Brand accepts the Customer's offer as set out in paragraph 3.1 (whether in writing, verbally or by conduct) at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 3.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that J. Brand has no contractual relationship with the End User and is not in any way liable to the End User, the Customer having the contractual relationship with the End User. The Customer acknowledges that it has not (and warrants to J. Brand that the End User has not) relied on any statement, promise or representation made or given by or on behalf of J. Brand which is not set out in the Contract.
- 3.4 Any samples, drawings, descriptive matter or advertising issued by J. Brand and (if any) any descriptions of the Equipment or illustrations or descriptions of the Services contained in J. Brand 's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Equipment described in them. They shall not form part of the Contract or have any contractual force.
- 3.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks (or for the avoidance of doubt the End User) to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.6 Any quotation given by J. Brand shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.
- 3.7 All of these Conditions shall apply to the supply of both Equipment and Services except where application to one or the other is specified.

4. EQUIPMENT

- 4.1 The Equipment (if any) is described in the Equipment Specification.

5. DELIVERY OF EQUIPMENT

Where Equipment is to be supplied:-

- 5.1 J. Brand shall deliver the Equipment to the location set out in the Order (which may be J. Brand's premises at Brindley Road Runcorn) or such other location as the parties may agree (**Delivery Location**) at any time after J. Brand notifies the Customer that the Equipment is ready.
- 5.2 Delivery of the Equipment shall be completed on the Equipment's arrival at the Delivery Location.
- 5.3 Any dates quoted for delivery of the Equipment are approximate only, and the time of delivery is not of the essence. J. Brand shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Customer's failure to provide J.

Brand with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

- 5.4 If J. Brand fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement Equipment of similar description and quality in the cheapest market available, less the price of the Equipment. J. Brand shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event, the Customer's failure to provide J. Brand with adequate delivery instructions for the Equipment or any relevant instruction related to the supply of the Equipment.
- 5.5 Where it is agreed that the Delivery Location is J. Brand's premises, J. Brand shall store the Equipment until transfer to the end site. J. Brand shall insure the Equipment (at the Customer's cost) while the Equipment is stored at J. Brand's premises.
- 5.6 If the Customer or End User fails to accept or take delivery of the Equipment within 14 days of J. Brand notifying the Customer that the Equipment is ready, then except where such failure or delay is caused by a Force Majeure Event or by J. Brand's failure to comply with its obligations under the Contract in respect of the Equipment:
- (a) delivery of the Equipment shall be deemed to have been completed at 9.00 am on the 2nd day following the day on which J. Brand notified the Customer that the Equipment was ready; and
 - (b) J. Brand shall store the Equipment until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 5.7 If 14 days after J. Brand notified the Customer that the Equipment was ready for delivery the Customer or End User has not accepted or taken delivery of them, J. Brand may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment.
- 5.8 J. Brand may deliver the Equipment by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

6. MANUFACTURER'S WARRANTY

- 6.1 Where Equipment is supplied, J. Brand makes no warranty or representation in respect of the Equipment, but shall use all reasonable efforts (without the involvement of further expenditure on the part of J. Brand) to ensure that the manufacturer's warranty is made available to and is actionable by the Customer or End User against the manufacturer of the Equipment provided the Customer complies with the terms of the said manufacturer's warranty.
- 6.2 Where Services are supplied, J. Brand gives a 12 month warranty to the Customer from the Commencement Date that the works performed by J. Brand shall be free from material defects in workmanship. For the avoidance of doubt, the warranty does not cover additional works or rectifying damage or the like when it occurs after J. Brand has supplied the Services. J. Brand are entitled to apply such other reasonable exclusions to its warranty under this clause 6.2 as it may from time to time (acting reasonably) determine. In any event, the limit of J. Brand's liability under this clause 6.2 shall be to use reasonable efforts to rectify the failure in workmanship directly attributable to J. Brand.

6.3 Except as provided in this clause 6, J. Brand shall have no liability to the Customer or for the avoidance of doubt End User in respect of the Equipment's failure, quality, fitness for purpose or otherwise.

7. TITLE AND RISK

7.1 The risk in the Equipment shall pass to the Customer on completion of delivery.

7.2 Title to the Equipment shall not pass to the Customer or End User until J. Brand has received payment in full (in cash or cleared funds) for:

- (a) the Equipment and Services; and
- (b) any other Equipment or Services that J. Brand has supplied to the Customer or End User in respect of which payment has become due.

7.3 Until title to the Equipment has passed to the Customer, the Customer shall (and shall ensure the End User shall):

- (a) hold the Equipment on a fiduciary basis as J. Brand's bailee;
- (b) store the Equipment separately from all other Equipment held by the Customer so that they remain readily identifiable as J. Brand's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;
- (d) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price on J. Brand's behalf from the date of delivery;
- (e) notify J. Brand immediately if it becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(l); and
- (f) give J. Brand such information relating to the Equipment as J. Brand may require from time to time,

but the Customer or the End User may use the Equipment in the ordinary course of its business.

7.4 If before title to the Equipment passes to the Customer the Customer or End User becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(l), or J. Brand reasonably believes that any such event is about to happen and notifies the Customer or End User accordingly, then, provided the Equipment has not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy J. Brand may have, J. Brand may at any time require the Customer to deliver up the Equipment and, if the Customer fails to do so promptly, enter any premises of the Customer or End User or of any third party where the Equipment is stored in order to recover it.

7.5

7.6 **The** Customer shall ensure that the Customer and End User Contract contain provisions to permit J. Brand to recover equipment in accordance with clause 7.4

8. SUPPLY OF SERVICES

8.1 J. Brand shall provide the Services to the End User as ordered by the Customer in accordance with the Service Specification in all material respects.

- 8.2 J. Brand shall use reasonable endeavours to meet any performance dates for the Services specified in the Order or as may be agreed between the parties in writing from time to time, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 8.3 J. Brand shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and J. Brand shall notify the Customer in any such event.
- 8.4 J. Brand warrants to the Customer that the Services will be provided using reasonable care and skill.

9. CUSTOMER'S OBLIGATIONS

- 9.1 The Customer shall:
- (a) ensure that the terms of the Order and (if submitted by the Customer) the Equipment Specification are complete and accurate;
 - (b) co-operate with J. Brand in all matters relating to the Services and ensure the End User so co-operates with J. Brand;
 - (c) procure that the End User provides to J. Brand, its employees, agents, consultants and subcontractors, with access to the End User's premises, office accommodation and other facilities as reasonably required by J. Brand to provide the Services;
 - (d) provide J. Brand with such information and materials as J. Brand may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
 - (e) ensure the End User prepares the End User's premises for the supply of the Services;
 - (f) obtain and maintain (and procure the End User obtains and maintains) all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
 - (g) keep and maintain all materials, equipment, documents and other property of J. Brand (**J. Brand Plant and Testing Equipment**) at the Customer's or End User's premises, to procure the End User keeps and maintains the J. Brand Plant & Testing Equipment at the End User's premises in safe custody at its own risk, maintain J. Brand Plant and Testing Equipment in good condition until returned to J. Brand, and not dispose of or use J. Brand Plant and Testing Equipment other than in accordance with J. Brand's written instructions or authorisation; and
 - (h) keep J. Brand informed of all relevant dates and relevant programme details relating to the project (if any) in connection with which the Customer has engaged J. Brand to provide the Services and/or supply the Equipment.
- 9.2 If J. Brand's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer and/or the End User to perform any relevant obligation (**Customer Default**):
- (a) J. Brand shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies (or procures the remedy) the Customer Default, and to rely on the Customer Default to relieve it from the

performance of any of its obligations to the extent the Customer Default prevents or delays J. Brand's performance of any of its obligations;

- (b) J. Brand shall not be liable for any costs or losses sustained or incurred by the Customer (and/or for the avoidance of doubt the End User) arising directly or indirectly from J. Brand's failure or delay to perform any of its obligations as set out in this clause 9.2; and
- (c) the Customer shall reimburse J. Brand on written demand for any costs or losses sustained or incurred by J. Brand arising directly or indirectly from the Customer Default.

10. CHARGES AND PAYMENT

- 10.1 The price for Equipment shall be the price set out in the Order or, if no price is quoted, the price set out in J. Brand's published price list as at the date of delivery. The price of the Equipment is exclusive of all costs and charges of packaging, insurance, transport of the Equipment, which shall be paid by the Customer when it pays for the Equipment.
- 10.2 The charges for Services shall be on a time and materials basis as set out in the Order.
- 10.3 J. Brand shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom J. Brand engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by J. Brand for the performance of the Services, and for the cost of any materials.
- 10.4 J. Brand reserves the right to increase the price of the Services and/or the Equipment, by giving notice to the Customer at any time before delivery or performance, to reflect any increase in the cost of the Services and/or the Equipment to J. Brand that is due to:
 - (i) any factor beyond the control of J. Brand (including fuel price fluctuations, foreign exchange fluctuations, increases in taxes (including VAT) and duties, and increases in labour, materials (including steel, copper and other relevant materials prices) and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of the Services and/or the Equipment ordered, or the Services and/or the Equipment Specification; or
 - (iii) any delay caused by any instructions of the Customer (including from the End User) in respect of the Services and/or the Equipment or failure of the Customer to give J. Brand adequate or accurate information or instructions in respect of the Services and/or the Equipment.

Without contractual obligation, J. Brand will endeavour where possible to give the Customer one month's notice of any increase in price, but failure to give such notice will not invalidate any price increase J. Brand may apply under this clause.

- 10.5 In respect of Equipment, J. Brand shall invoice the Customer on or at any time after completion of delivery. In respect of Services, J. Brand shall invoice the Customer weekly/monthly in arrears.
- 10.6 The Customer shall pay each invoice submitted by J. Brand:
 - (a) within 30 days of the date of the invoice; and

(b) in full and in cleared funds to a bank account nominated in writing by J. Brand, and

time for payment shall be of the essence of the Contract. For the avoidance of doubt, J. Brand's invoices must be paid within the above timescales notwithstanding any failure of the End User to pay any invoice or sum due from the End User to the Customer.

- 10.7 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by J. Brand to the Customer, the Customer shall, on receipt of a valid VAT invoice from J. Brand, pay to J. Brand such additional amounts in respect of VAT as are chargeable on the supply of the Services or Equipment at the same time as payment is due for the supply of the Services or Equipment.
- 10.8 Without limiting any other right or remedy of J. Brand, if the Customer fails to make any payment due to J. Brand under the Contract by the due date for payment (**Due Date**), J. Brand shall have the right to charge interest on the overdue amount at the rate of 4 per cent per annum above the then current NatWest Bank's base lending rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 10.9 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against J. Brand in order to justify withholding payment of any such amount in whole or in part. J. Brand may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by J. Brand to the Customer.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by J. Brand.
- 11.2 The Customer acknowledges (on behalf of itself or the End User) that, in respect of any third party Intellectual Property Rights in the Services, the Customer's and/or End User's use of any such Intellectual Property Rights is conditional on J. Brand obtaining a written licence from the relevant licensor on such terms as will entitle J. Brand to license such rights to the Customer.
- 11.3 All J. Brand Plant and Testing Equipment is the exclusive property of J. Brand.

12. CONFIDENTIALITY

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 12 shall survive termination of the Contract.

13. LIMITATION OF LIABILITY

13.1 Nothing in these Conditions shall limit or exclude J. Brand's liability for:

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

13.2 For the avoidance of doubt, J. Brand has no liability of whatsoever nature to the End User save where J. Brand is unable to exclude such liabilities by law.

13.3 Subject to clauses 13.1 and 13.2:

- (a) J. Brand shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract (whether such loss relates to the Customer or the End User); and
- (b) J. Brand's total liability under the Contract in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by J. Brand's deliberate personal repudiatory breach **OR** a deliberate breach of the Contract by J. Brand, its employees, agents or subcontractors shall not exceed the value of the order.

13.4 J. Brand shall not be liable to the Customer in any request unless the Customer notifies J. Brand (giving reasonable details of the matter giving rise to the alleged claim) in writing no later than 6 months from completion of the Services or delivery of the Equipment, whichever is the later.

13.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

13.6 This clause 13 shall survive termination of the Contract.

14. TERMINATION

14.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing of the breach;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being

a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.1(b) to clause 14.1(i) (inclusive);
- (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

14.2 Without limiting its other rights or remedies, J. Brand may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

14.3 Without limiting its other rights or remedies, J. Brand shall have the right to suspend the supply of Services or all further deliveries of Equipment under the Contract or any other contract between the Customer and J. Brand if:

- (a) the Customer fails to make pay any amount due under this Contract on the due date for payment; or

- (b) the Customer becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(l), or J. Brand reasonably believes that the Customer is about to become subject to any of them.

15. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to J. Brand all of J. Brand's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, J. Brand shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of J. Brand Plant and Testing Equipment, Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then J. Brand may enter the Customer's or End User's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

16. GENERAL

16.1 Force majeure:

- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of J. Brand including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party 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, storm or default of suppliers or subcontractors.
- (b) J. Brand shall not be liable to the Customer (or for the avoidance of doubt the End User) as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents J. Brand from providing any of the Services and/or Equipment for more than 12 (twelve) weeks, J. Brand shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

16.2 Assignment and subcontracting:

- (a) J. Brand may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

- (b) The Customer shall not, without the prior written consent of J. Brand , assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

16.3 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- (c) This clause 16.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

16.4 Waiver and cumulative remedies:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. 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.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.

16.5 Severance:

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any 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) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

16.7 Third parties: A person who is not a party to the Contract (including the End User) shall not have any rights under or in connection with it.

- 16.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by J. Brand .
- 16.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.