

1. Definitions & Interpretation

- 1.1 These words have the following meanings ascribed to them unless the context otherwise admits:
- “BPC”**: the British Polling Council (www.britishpollingcouncil.org).
- “Business Day”**: a day other than a Saturday, Sunday or public holiday in England, when banks are generally open for business.
- “Charges”**: the charges payable by the Client for the provision of the Services, as set out in the Contract Header Form.
- “Contract”**: the contract between the Client and 72Point for the provision of the Services, comprising the Contract Header Form (including the Special Terms, if any), the Standard Terms, the Proposal, and the Client Order.
- “Control”**: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.
- “Client Material(s)”**: all information, media, data, photographs, video, infographics, and any other materials supplied by the Client to 72Point.
- “Client Order”**: a purchase order, Proposal/SOW, or other communication specifying the Services to be provided by 72Point and sent by the Client to 72Point.
- “Deliverables”**: all articles, captions, copy, infographics, layouts, media (including photographs and video), quizzes, releases, scripts and other documents and materials developed by 72Point or its personnel as part of or in relation to the Services in any form and any Key Deliverables set out in the Contract Header Form.
- “Due Date for Payment”** means the thirtieth (30th) day after receipt by the Client of and invoice from 72Point unless otherwise agreed in writing by 72Point.
- “Ideas”**: any ideas concepts strategies and formats for campaigns or other initiatives developed by 72Point as set out in a Proposal/SOW or as otherwise suggested or provided by 72Point (including OnePoll) to the Client (whether or not in the course of providing the Services).
- “Intellectual Property Rights”/“IPR”**: means all patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, goodwill and 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 and trade secrets) and all other intellectual property rights 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.
- “OnePoll”**: a trading style of 72Point for undertaking research.
- “Permitted Uses”**: means PR, editorial, and BTL activity, and excludes advertising.
- “Pinpep”**: a trading style of 72Point for standalone photography and videography services.
- “Project”**: means the specific Client project or campaign in respect of which the Services and Deliverables are provided.
- “Proposal/SOW”**: means a proposal or statement of work document (whether hard copy or soft copy and can include emails), setting out the scope of the Services to be provided by 72Point.
- “Services”**: the services, including Photographic Services and any Deliverables, to be provided by 72Point pursuant to the Contract.

“Services Start Date”: the day on which 72Point is to start provision of the Services, as set out in the Contract Header Form (or, if unspecified, the date on which 72Point starts provision of the Services).

“Standard Terms”/“Terms”: these terms and conditions.

- 1.2 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.
- 1.3 Any words following the terms **including**, **include** 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.
- 1.4 A reference to **writing** or **written** includes email but not fax.

2. Commencement and duration

- 2.1 The Contract shall commence upon acceptance by 72Point of a Client Order (**Commencement Date**). Acceptance shall usually be indicated by the issue of an order acknowledgment confirming operational matters such as the timescale for delivery.
- 2.2 The Contract shall remain in force until the earlier of the dates on which delivery of the Services is complete or the date determined in accordance with Clause 2.3.
- 2.3 If delivery of the Services is incomplete (other than as a result of a delay occasioned by 72Point), the Contract shall expire by effluxion of time without any reduction in the Charges paid or payable:
- a) in the case of the contract value being less than £10,000 (excluding VAT), six months commencing on the commencement Date; or
 - b) in all other cases, twelve months commencing on the Commencement Date.

3. Provision of the Services

- 3.1 72Point shall provide the Services to the Client from the Services Start Date in accordance with the Contract.
- 3.2 In providing the Services, 72Point shall:
- 3.2.1 perform the Services with reasonable care and skill and to the standard reasonably expected from a competent and professional provider of services substantially similar to the Services;
 - 3.2.2 in the case of public relations services, as a registered member of the Public Relations Consultation Association (PRCA), abide by the [PRCA’s Professional Charter and Codes of Conduct](#) and shall be subject to the PRCA Arbitration and Disciplinary Procedures;
 - 3.2.3 promptly notify the Client of any complaint or other matter arising in relation to any Deliverables posted, shared or otherwise distributed by 72Point in the course of providing the Services; and
 - 3.2.4 ensure that the Deliverables, and all materials, standards and techniques used in providing the Services are of satisfactory quality and are fit for purpose;
 - 3.2.5 comply with all applicable laws, statutes, regulations, and codes from time to time in force, provided always that 72Point shall have no liability to the Client if, as a result of such compliance, it is in breach of any of its obligations under the Contract; and

3.2.6 take reasonable care of all Client Materials in its possession and make them available for collection by the Client on reasonable notice and request, always provided that 72Point may destroy the Client Materials if the Client fails to collect the Client Materials within a reasonable period after termination of the Contract.

72Point shall use its reasonable endeavours to comply with any requests by the Client to amend or halt any plans to or cancel any schedules or work in progress, insofar as this is possible within the scope of 72Point's obligations to its suppliers and provided that the Client shall be responsible for any costs or expenses incurred or to which 72Point is committed prior to, or as a result of, the cancellation or amendment. The Client shall also pay 72Point's Charges covering the cancelled or amended Services, as well as any charges imposed on 72Point by third parties arising from the cancellation or amendment.

4. Edits

4.1 If the Client wishes to have the Deliverables edited, the Client must contact 72Point at the earliest opportunity. Upon such a request 72Point will advise if a) the requested edits are possible, b) the timing of supply of the edited Deliverables, c) the charge (if any) for undertaking the edits d) anything else that may be necessary as a result of the Client's requested edit. 72Point shall not undertake any edits unless and until instructed to do so by the Client. All edits are undertaken as part of the Contract and subject to the terms thereof.

4.2 72Point shall provide the following edits in relation to the Deliverables without additional charge to the Client:

4.2.1 Up to two edits to a press release, an article, or video content.

4.2.2 One edit to survey questions, an infographic, quiz, or interactive Services

4.3 Edits other than those specified in Clause 4.3 will be subject to additional charges.

5. Client's obligations

5.1 The Client shall:

5.1.1 co-operate with 72Point in all matters relating to the Services;

5.1.2 provide, in a timely manner, such access credentials or information as 72Point may reasonably require, and ensure that it is accurate and complete in all material respects;

5.1.3 provide, in a timely manner, such feedback and approvals as 72Point may reasonably require in relation to the provision of the Services and the Client acknowledges that if approval is not given for the distribution of any Deliverables within 48 hours of approval being requested, 72Point may proceed to distribute such Deliverables;

5.1.4 promptly notify 72Point of any complaint or other matter arising in relation to any Deliverables posted, shared or otherwise distributed by the Client; and

5.1.5 permit 72Point's personnel to attend meetings, when reasonably necessary, with any advertising, PR and/or marketing services agencies and other advisers engaged by the Client.

5.2 If 72Point's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client or its personnel, 72Point shall:

5.2.1 have the right to suspend performance of the Services until such prevention or delay has been remedied and rely on the same to relieve it from performing any of its obligations;

5.2.2 not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay;

5.2.3 be entitled to payment of the Charges despite any such prevention or delay; and

5.2.4 be entitled to recover any additional costs, charges, or losses 72Point sustains or incurs that arise directly or indirectly from such prevention or delay.

5.3 If as a result of any act or omission of the Client an agreed diary/time slot is missed, the Client shall pay to 72Point liquidated damages in the sum of one thousand pounds (£1,000). The Parties confirm that this sum represents a genuine pre-estimate of 72Point's loss. The provisions of Clause 10.4 shall apply in respect of cancellation of Photographic Services.

6. Ideas and Intellectual property

6.1 Nothing in the Contract shall prevent or restrict 72Point from reusing any Ideas developed by 72Point for other clients (whether or not such clients compete with the Client).

6.2 If 72Point has provided the Client with Ideas together with a quotation or estimate of the Proposed Charges for the execution of such Ideas, and 72Point is not engaged to provide Services, 72Point reserves the right to invoice the Client for the Proposed Charges if the Client, acting alone or through or with any other person, subsequently uses or employs such Ideas or any substantially similar ideas, concepts, strategies, and formats.

6.3 Subject to Clause 6.1, and Clause 6.4, and Clause 6.7, 72Point assigns to the Client by way of present and future assignment and with full title guarantee, all Intellectual Property Rights in and to the Deliverables and 72Point shall:

6.3.1 obtain waivers of all moral rights in the Deliverables to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 (or any similar provisions of law in any jurisdiction);

6.3.2 promptly at the Client's request, do (or procure to be done) all such further acts and things and the execute all such documents as the Client may reasonably require for the purposes of securing for the Client all right, title and interest in and to the Intellectual Property Rights in the Deliverables; and

6.3.3 indemnify the Client in full against any sums awarded by a court against the Client arising out of or in connection with any claim brought against the Client for infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt or use of the Deliverables by the Client.

6.4 The Client shall not, without the prior written consent of 72Point:

6.4.1 use Deliverables or any of them other than for the Permitted Uses, and only in relation to the Project. An

additional fee is payable for use outside the Project or other than the Permitted Uses.

- 6.4.2 modify or alter any Deliverable or other work created for the Client without the prior written consent of 72Point. Any agreed modifications or alterations shall only be carried out by 72Point or under its supervision and shall be paid for at a rate agreed between the parties in writing. Reprints obtained by the Client shall not differ in any way from the originals supplied without 72Point's prior written consent.
- 6.5 The Client shall retain ownership of all Intellectual Property Rights in the Client Materials and the Client:
- 6.5.1 grants to 72Point a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Client Materials for the term of the Contract for the purpose of providing the Services to the Client in accordance with the Contract;
- 6.5.2 warrants that the receipt or use of the Client Materials in the performance of the Contract by 72Point shall not infringe the rights (including copyright and related rights and moral rights) of any third party; The Client grants to 72Point a fully paid-up, non-exclusive, royalty-free, non-transferable licence to use the Client's name, Client Materials and the Deliverables for the purposes of marketing 72Point's services in any form or media, provided that the Client may revoke such licence on reasonable notice in writing in respect of any future marketing by 72Point.
- 65 In respect of Client Material in which the Client does not own the IPR, the Client warrants that a) it has the unqualified consent of the owner of the IPR to distribute the Client Material specifically for use on the SWNS wire service, through which service the Client Material will be provided to print and online publishers worldwide, and b) the owner of the IPR acknowledges and agrees that although ownership of the IPR in the Client Material does not pass to 72Point or SWNS, publishers may credit or by-line the Client Material as SWNS content, and not refer to acknowledge the IPR owner. The Client undertakes to provide to 72Point upon request such evidence of the consents set out in this Clause 6.6 as 72Point consider reasonable.
- 66 The Client shall indemnify, hold harmless and defend 72Point against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and reasonable legal costs) and all other reasonable professional costs and expenses) suffered or incurred by 72Point arising out of or in connection with any claim that the Client Materials or any of them, or 72Point's use of the Client Materials or any of them infringes a third party's rights, including but not limited to copyright and related rights and any moral rights.
- 67 As a member of the BPC, 72Point is committed to the quality measures and transparency for polls and market research set out in the BPC's rules. The Client:
- 6.7.1 undertakes to notify 72Point immediately upon any polling/research data being placed in the public domain (for example, being used in an advertisement, or published on a website); and

The Client agrees that the data shall, in accordance with BPC rules, be published on 72Point's OnePoll website within two days of its publication in the public domain by or on behalf of the, in accordance with the BPC rules.

7. Charges and payment

- 7.1 In consideration for the provision of the Services, and upon receipt of a valid VAT invoice the Client shall pay 72Point the Charges, together with VAT thereon at the prevailing rate, in accordance with this Clause 7.
- 7.2 72Point shall submit invoices for the Charges to the Client at the point of booking or otherwise as agreed in writing by 72Point. Each invoice shall include reasonable supporting information required by the Client.
- 7.3 The Client shall pay each invoice which is not the subject of bona fide dispute not later than the Due Date for Payment, to a bank account nominated in writing by 72Point.
- 7.4 If the Client fails to make any payment to 72Point by the Due Date for Payment, then, without limiting any other rights or remedies available to it, including but not limited to remedies under Clause 9 (Termination), 72Point shall be entitled to:
- charge interest on the outstanding amount at the statutory rate, both before and after judgment, from the day following the Due Date for Payment until payment is received by 72Point; and
 - recover such charges or compensation for late payment as are set out in the Late Payment of Commercial Debts (Interest) Act 1968 as may be amended from time to time; and
 - suspend all Services until payment has been made in full.
- 7.5 All amounts due from the Client to 72Point shall be paid in full without set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 7.6 If the Client disputes any part of an invoice:
- the Client shall pay the undisputed amount by the Due Date for Payment; and
 - notify 72Point of the reason for the dispute in writing within five working days of the invoice date; and
 - Acting in good faith work with 72Point shall to resolve the dispute within 21 days of it being notified to 72Point.
- Payment of any amount agreed as payable following satisfactory resolution of a dispute shall be made by the later of the Due Date for Payment or seven (7) days following such resolution.

8. Limitation of liability

- 8.1 72Point shall have no liability for any error in the Deliverables as published, for any delay or failure in publication as planned, unless such error, delay or failure is caused by the 72Point's negligence or wilful default.
- 8.2 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- death or personal injury;
 - fraud or fraudulent misrepresentation; and
- 8.3 Subject to Clause 8.2, 72Point's total liability to the Client, if any, shall not exceed:
- where the Client appoints 72Point to provide the Services on an ongoing basis, an amount which is equal to the total

Charges paid in the preceding 12-month period in which the cause of action occurred; or
 where the Client appoints 72Point to perform Services on a one-off basis, an amount which is equal to the Charges paid or payable in respect of the Services in respect of which the cause of action occurred.

9. Termination

- 9.1 Without affecting any other right or remedy available to it, either party to the Contract may terminate it with immediate effect by giving written notice to the other party if:
 - 9.1.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 9.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - 9.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 9.1.4 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.2 Without affecting any other right or remedy available to it, 72Point may terminate the Contract with immediate effect by giving written notice to the Client if:
 - 9.2.1 the Client fails to pay any amount due under the Contract on the due date for payment; or
 - 9.2.2 there is a change of control of the Client.
- 9.3 On expiry or termination of the Contract for whatever reason:
 - 9.3.1 the Client shall immediately pay to 72Point all of the outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, 72Point may submit an invoice, which shall be payable immediately on receipt;
 - 9.3.2 any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect; and
 - 9.3.3 termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

10. Pinpep Standalone Photography & Videography Services

In this Clause 10, these words have the following meanings ascribed to them:

“Above The Line”: any mass media marketing method which may reach a wide group of people, including but not limited to radio, TV, newspaper and magazines and billboard advertisements.

“Below The Line”: any marketing or advertising method which intends to reach a smaller and targeted group of people, including but not limited to brochures, direct mail and email campaigns.

“Image(s)”: the photographic material, whether still or moving, created by 72Point pursuant to these Terms including but not limited to, transparencies, negatives, prints, or digital files, that were captured, recorded, stored, or delivered, in any type of analogue, photographic, optical, electronic, magnetic, digital, or any other, media.

“Licence”: a perpetual, non-exclusive, non-sublicensable, non-transferable and non-assignable licence to use the Images for editorial, public relations and Below The Line usage. Image(s) may not be used in a logo, corporate identity, trademark (whether or not registered) or other service marks. For the avoidance of doubt Third Party Rights are not included in the grant of the Licence.

“Photographic Services”: the photography or videography services provided by 72Point pursuant to the Contract.

“Reproduction”: any form of publication or copying of the whole or any part of the Image (whether or not altered) including but not limited to printing, photography, slide projection (whether or not to an audience), xerography, artist's reference, artist's illustration, layout or presentation, electronic or mechanical reproduction or storage by any other means.

“Reproduction Rights”: means personal, non-assignable licence of copyright in the Images granted to the Client and enabling reproduction and use of the Images as set out in these Terms. For the avoidance of doubt Reproduction Rights excludes any Third Party Rights.

“Session”: the occasion during which Images are taken by 72Point, whether in a studio or on location.

“Third Party Rights”: trade marks, logos, personalities, names, crests, graphics, designs or works of art depicted in an Image.

10.1 We will provide the Photographic Services with reasonable skill and care.

10.2 Images created during a Session will be at the discretion of the photographer, although reasonable efforts will be made to comply with your requirements.

10.3 72Point reserves the right to refuse to provide or continue to provide the Photographic Services if in its reasonable opinion it would be unlawful to do so, or if it reasonably believes that the images requested are obscene, defamatory, or otherwise illegal. If the Client cancels the Photographic Services, a cancellation fee will be charged as follows:

Cancellation	Cancellation Fee
More than 24 hours before the scheduled Session	nil
Between 12 and 24 hours before the scheduled session	50% of the Charges

Less than 12 hours before the scheduled Session	100% of the Charges
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- 10.4 The Parties agree that the Cancellation Fees set out in Clause 10.4 are represents a genuine pre-estimate of 72Point's loss in the event of cancellation of Photographic Services.
- 10.5 If the Photographic Services are rescheduled rather than cancelled, any expenses incurred as a result of the rescheduling will be payable by the Client in addition to the Charges.
- 10.6 72Point is the sole owner of all rights in the Images, including but not limited to copyright and any right of a similar nature to copyright. Copyright metadata contained within any digital file may not be altered or removed, without our express written consent.
- 10.7 Unless otherwise agreed, the photographer retains the right to use the Images, or any of them, for their self-promotion.
- 10.8 (a) All Images are provided subject to the Licence, and 72Point remains at all times the sole legal and beneficial owner of all rights in the Images. All rights not expressly granted to the Client by the Licence are reserved in full.
 (b) Unless otherwise agreed in writing, the Licence commences on the date we receive full payment of our invoiced Charges.
 (c) Above The Line usage is prohibited unless otherwise agreed by us in writing.
 (d) Use, alteration, or modification of Images by the Client shall not constitute a work of joint authorship.
- 10.9 The Client may not make or cause or permit any other person to make alterations to the Images, including, but not limited to, additions, subtractions, or adaptations, alone or with any other material, without the prior express permission of 72Point. Normal adjustments for colour, contrast, brightness, sharpness, and cropping are excepted.
- 10.10 72Point may deliver, and you agree to accept, the Images encoded in an industry-standard data format and at a resolution determined by the photographer, having due regard for the reproduction technology and use for which the Images are licensed.
- 10.11 Photographers will use cameras and monitors that are colour calibrated to industry standards. Due to variances in other monitors, software and computer platforms, the Images may display differently on other monitors. Neutrals will be set for mathematical neutrality and colour will be adjusted for pleasing tonalities.
- 10.12 It is the Client's responsibility to verify that the digital data, including colour profile, if provided, are suitable for Reproduction of the expected quality and colour accuracy, and that all necessary steps are taken to ensure correct Reproduction. If the data are not deemed suitable, 72Point's sole obligation will be to replace or repair the data. 72Point shall not be liable for poor reproduction quality, delays, or for any expense, consequential, special, or pure economic loss arising directly or indirectly from defects or errors in digital files or the use thereof.
- 10.13 It is the Client's responsibility to properly store the Images. 72Point cannot guarantee the availability of any Images beyond the date of first delivery to you.
- 10.14 The Client acknowledges that optical, magnetic, electronic, and any other, media for storing digital data are inherently unstable,

and of limited life. 72Point shall not be liable for any loss or damage of whatsoever nature arising from media supplied by 72Point becoming unusable.

11. Confidentiality and data protection

- 11.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of counterparty's Group, except as permitted by Clause 10.2. For the purposes of this Clause, **Group** means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
- 11.2 Each party may disclose the other party's confidential information:
- 11.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors, or advisers to whom it discloses the other party's confidential information comply with this Clause 10; and
- 11.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.3 Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 11.4 If in connection with market research services provided by 72Point, the Client, acting as a data controller or processor, appoints 72Point as a processor or as the case may be sub-processor, the parties shall enter into a suitable data processing agreement. This circumstance typically arises when the Client requires 72Point to process personal data of a response panel of individuals provided by the Client (for example, the Client's customers); this Clause is of no effect if the response panel is provided by 72Point.

12. General

- 12.1 Non-solicitation: During the term of the Contract and for a period of six months following its expiry or termination, neither party shall engage or employ or engage or solicit for employment or engagement any person who is employed or engaged by the other party (except a person who is engaged or employed in response to a national advertising campaign open to all comers) or otherwise seek to influence or alter any such person's relationship with the other party (except that this restriction shall not preclude the carrying out of a national advertising campaign open to all comers).
- 12.2 Force majeure: Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 12.3 Assignment and other dealings:
- 12.3.1 The Client shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without 72Point's prior written consent (such consent not be unreasonably withheld).

- 12.3.2 72Point may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract provided that, where 72Point subcontracts any of its obligations under the Contract, such subcontracting shall not release 72Point from its obligations under the Contract and 72Point shall remain fully liable for the performance of the Services.
- 12.4 **Entire agreement:**
- 12.4.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 12.4.2 Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- 12.5 **Variation:** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 12.6 **Waiver:** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 12.7 **Severance:** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of the Contract.
- 12.8 **Notices:**
- 12.8.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 12.8.2 Any notice shall be deemed to have been received, if delivered by hand, on signature of a delivery receipt, or, if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.
- 12.8.3 This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 12.8.4 A notice given under the Contract is not valid if sent by email.
- 12.9 **Third party rights:** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract and the rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 12.10 **Counterparts:** The Contract may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.
- 12.11 **Governing law:** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.
- 12.12 **Jurisdiction:** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.
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