

Gapp Automation Ltd Terms and Conditions of sale (rev 1.6 / 010114)

- 1 **INTERPRETATION**
 - 1.1 In these Conditions:
 - "Buyer" means the person whose order to purchase the Goods is accepted by the Seller
 - "Goods" means the goods (including any part delivery of the goods or any parts of them) which the Seller has agreed to supply in accordance with these Conditions as set out in the Buyer's order
 - "Seller" means Gapp Automation Limited (a private company registered in England with limited liability under company number 8457228, whose registered office is at 6 Kempston Court, Manor Road, Kempston Hardwick, Bedford MK43 9PQ
 - "Conditions" means the standard terms and conditions of sale set out in this document and as amended from time to time in accordance with clause 2.3.
 - "Contract" means the contract between the Seller and the Buyer for the sale and purchase of the Goods in accordance with these Conditions.
 - "Specification" means any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Buyer and the Seller
 - "Order" means an order by the Buyer which is accepted by the Seller
 - "Writing" includes letter, facsimile or email
 - "Business Day" means a day (other than a Saturday, Sunday or public holiday)
 - 1.2 In these Conditions the following apply:
 - 1.2.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
 - 1.2.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that statute or provision as amended re-enacted or extended at the relevant time. A reference to statute or statutory provisions includes any subordinate legislation, as amended or re-enacted.
 - 1.2.3 A reference to a party includes its personal representatives, successors or permitted assigns.
 - 1.2.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.
 - 1.2.5 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.
- 2 **BASIS OF THE SALE**
 - 2.1 A quotation for the Goods given by the Seller shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.
 - 2.2 All quotations given, orders made and accepted by the Seller are subject to, and shall be deemed to incorporate, these Conditions and these Conditions shall apply to the exclusion of any other terms and conditions that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealings, including without limit those which the Buyer purports to apply under any order.
 - 2.3 No variation to these Conditions shall be binding unless agreed in Writing and signed by the Seller.
 - 2.4 The Seller's employees or agents are not authorised to make any representations or give any advice or recommendation concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of, any such representatives which are not so confirmed.
 - 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- 3 **ORDERS AND SPECIFICATIONS**
 - 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative, at which point the Contract shall come into existence.
 - 3.2 The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions. The Buyer shall be responsible for ensuring that the terms of any order (including any applicable design measurement, quantities and Specification) submitted by the Buyer are complete and accurate, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
 - 3.3 The quantity, quality and description of and any Specification for the Goods shall be those set out in the Buyer's order, if accepted by the Seller.
 - 3.4 If the goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a Specification submitted by the Buyer, the Buyer shall indemnify the Seller against all liabilities, damages, costs, expenses and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by the Seller in connection with, or paid or agreed to be paid by the Seller in settlement of, any claim made against the Seller for actual or alleged infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of or any other person arising out of or in connection with the Seller's use of the Buyer's Specification. This clause shall survive termination of the Contract.
 - 3.5 The Seller reserves the right to make any changes in the Specification of the Goods if required by any statutory requirement or regulatory requirement.
 - 3.6 Except as otherwise set out in these Conditions, no order which has been accepted by the Seller may be cancelled by the Buyer unless the Seller agrees in Writing and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and material used), damages, charges and expenses incurred by the Seller as a result of cancellation.
- 4 **PRICE OF GOODS**
 - 4.1 The price of Goods shall be the price set out in the Buyer's order or, where no price has been quoted, the price listed in the Seller's published price list current at the date of delivery.
 - 4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or Specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
 - 4.3 Where the Seller agrees to deliver the Goods otherwise than in accordance with Clause 6.1, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.
 - 4.4 The price of the Goods is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
- 5 **TERMS OF PAYMENT**
 - 5.1 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods:
 - 5.1.1 in the case of the Goods being collected by the Buyer in accordance with clause 6.1.1 any time after the Seller has notified the Buyer that the Goods are ready for collection;
 - 5.1.2 in the case of the goods being delivered in accordance with clause 6.1.2 on or at any time after delivery of the Goods; or
 - 5.1.3 if the Buyer fails to take delivery of the Goods, at the time the Seller had tendered delivery of the Goods.
 - 5.2 The Buyer shall pay the invoice in full in cash or cleared funds and in pounds sterling within 30 days of the date of the invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment at the price shall be of the essence of the Contract.
 - 5.3 If the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
 - 5.3.1 cancel the Contract or any other contract and orders between the Buyer and the Seller;
 - 5.3.2 suspend any further deliveries to the Buyer in relation to the Contract or any other contract between the Buyer and the Seller;
 - 5.3.3 appropriate any payment (whether partial payment or full payment) made by the Buyer to any or all of the Goods (or the goods supplied under the other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer);
 - 5.3.4 charge the Buyer interest (both before and after any judgement) on the amount overdue, at the rate of 1.5 per cent per annum above HSBC base rate from time to time until payment is made in full. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount. The Buyer shall pay the interest together with the overdue amount); and
 - 5.3.5 charge the Buyer all costs, charges and expenses incurred by the Seller (including, without limitation, costs incurred in commencing and carrying out legal proceedings) in the collection of the payment (and so that any taxation of the Seller's costs, charges and expenses shall be on a full indemnity basis).
 - 5.4 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.
 - 5.5 The seller reserves the right at any time to demand full or partial payment before proceeding further with any order.
- 6 **DELIVERY**
 - 6.1 Delivery of the Goods shall be completed:
 - 6.1.1 upon the Buyer collecting the Goods at the Seller's premises at Unit 6 Kempston Court, Kempston Hardwick or such other location as may be advised by the Seller prior to delivery within 3 Business Days after the Seller has notified the Buyer that the Goods are ready for collection; or
 - 6.1.2 upon the Seller delivering the Goods to the Buyer's address or some other location as may be agreed in writing between the parties.
 - 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in Writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
 - 6.3 The Seller may deliver the Goods in instalments. Each instalment shall constitute a separate Contract and failure or delay by the Seller to deliver any one or more of the instalments in accordance with these Conditions, or any claim by the Buyer or defect in respect of any one or more instalments, shall not entitle the Buyer to cancel any other instalment and treat the Contract as a whole as repudiated. Each instalment may be invoiced and paid for separately.
 - 6.4 If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Seller shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
 - 6.5 If the Buyer fails to take or accept delivery of the Goods (as the case may be) within 3 Business Days of the Seller notifying the Buyer that the Goods 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 then, without prejudice to any other right or remedy available to the Seller under the Contract, the Seller may (without limitation):
 - 6.5.1 Delivery of the goods shall be deemed to have been completed at 9.00am on the third Business Day after the day on which the Seller notified the Buyer that the Goods were ready;
 - 6.5.2 The Seller shall store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) for storage; or
 - 6.6 If after 10 Business days after the day on which the Seller notified the Buyer that the Goods were ready for delivery and the Buyer has not taken or accepted delivery of them (as the case may be), the Seller may resell or otherwise dispose of part or all of the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for any excess over the price of the Goods under the Contract or charge the Buyer for any shortfall below the price of the Goods under the Contract.
- 7 **RISK AND PROPERTY**
 - 7.1 Risk in the Goods shall pass to the Buyer:
 - 7.1.1 in the case of Goods being delivered in accordance with clause 6.1.1, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
 - 7.1.2 in the case of the Goods being delivered in accordance with clause 6.1.2 upon arrival of the Goods at the delivery location agreed; or
 - 7.1.3 if the Buyer fails to take delivery of the Goods, at the time the Seller tenders delivery of the Goods.
 - 7.2 Title to the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other sums then due and payable by the Buyer to the Seller in respect of this or any other contract for goods or services between the Seller and the Buyer.
 - 7.3 Until title to the Goods passes to the Buyer, the Buyer shall:
 - 7.3.1 hold the Goods as the Seller's fiduciary agent and bailee,

- 7.3.2 store the Goods separate from those goods of the Buyer and third parties so that they remain identifiable as the Seller's property.
- 7.3.3 Not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 7.3.4 Maintain the Goods in satisfactory conditions, properly stored, and keep them protected and insured against all risk for their full price from the date of delivery.
- 7.3.5 keep all proceeds from the resale or use of the Goods separate from any monies or property of the Buyer and third parties notify the Seller immediately if it becomes subject to any of the events listed in clause 9; and
- 7.3.6 Give the Seller such information relating to the Goods as the Seller may require from time to time.
- 7.4 The Buyer shall be entitled to resell or use the Goods in the ordinary course of its business
- 7.5 Until such time as the title to the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold or irreversibly incorporated into another product), without limiting any other right or remedy that the Seller may have, the Seller shall be entitled at any time to require the Buyer to deliver up to the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 7.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.
- 8 WARRANTIES AND LIABILITY**
- 8.1 Subject to the conditions set out below the Seller warrants that on delivery and for a period of 12 months from the date of delivery the Goods will correspond in all material respects with their Specification and will be free from material defects in design, material and workmanship.
- 8.2 The above warranty is given to the Seller subject to the following conditions:
- 8.2.1 the Seller shall under no circumstances be liable in respect of any defect arising from the Seller following any drawing, design or Specification supplied by the Buyer;
- 8.2.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions or storage, failure to follow the Seller's instructions (whether oral or in Writing) as to the storage, commissioning, installing, use and maintenance of the Goods or (if there is none) good trade practice regarding the same, misuse or alteration or repair of the Goods without the Seller's written approval; The Goods differ from the Specification given as a result of changes made to ensure they comply with the applicable statutory or regulatory requirements.
- 8.2.3 The Buyer makes any further use of the Goods after giving notice in accordance with clause 8.6.
- 8.2.4 Where the Seller supplies eye lifts to the Buyer the Seller shall under no circumstances be liable in respect of any defects arising in the Goods and/or damage or any direct, indirect or consequential loss arising from the Buyer's use of the eye lifts in connection with any purpose other than lifting a motor provided by the Seller. For the avoidance of doubt, the Seller accepts no liability howsoever arising if an eye lift is overloaded, or fitted incorrectly or used for any purpose other than for which it has been designed.
- 8.3 Subject as expressly provided in these Conditions, and except where the Goods are sold under a consumer sale (as defined by the Sale of Goods Act 1979), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 8.4 Where the Goods are sold under a consumer sale (as defined by the Sale of Goods Act 1979) the statutory rights of the Buyer are not affected by these conditions.
- 8.5 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with Specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 8.6 Where any valid claim in respect of any defect in the quality or condition of the Goods or their failure to meet any Specification is notified to the Seller in accordance with these Conditions, and the Seller has reasonable opportunity to examine such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.
- 8.7 Except in respect of death or personal injury caused by the Seller's negligence, the negligence of its employees, agents or sub-contractors, fraud or fraudulent misrepresentation, breach of the terms implied by section 12 of the Sale of Goods Act 1979, defective products under the Consumer Protection Act 1987 or any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability the Seller shall under no circumstances whatsoever be liable to the Buyer in contract, tort (including negligence) breach of statutory duty, or otherwise, for any loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for indirect or consequential loss whatsoever which arise out of or in connection with the Contract except as expressly provided in these Conditions.
- 8.8 The Seller's total liability to the Buyer 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, shall in no circumstances exceed 100% of the price of the Goods in any one calendar year.
- 8.9 Except as provided in this clause 8 the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in this clause.
- 8.10 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to a Force Majeure Event. A Force Majeure Event means any cause beyond the Seller's reasonable control which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable. Without prejudice to the generality of the foregoing, the following is a non exclusive list of examples that shall be regarded as causes beyond the Seller's reasonable control:
strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of Sellers or subcontractors.
- 8.11 The Buyer agrees to indemnify and keep indemnified the Seller from and against all costs, claims, demands, liabilities, expenses, damages or losses (including without limitation all direct, indirect or consequential losses, loss of profit and loss of reputation and all interest, penalties and legal and other professional costs and expenses) and this indemnity shall cover but is not limited to the Seller's liability for third parties arising out of the Goods including (without limitation) liability to enforcement agencies and consumers for unsafe and defective goods. This indemnity shall apply whether or not the Seller may have been negligent or at fault.
- 9 INSOLVENCY OF BUYER**
- 9.1 If the Buyer becomes subject to any of the events listed in clause 9.2, or the Seller reasonably believes that the Buyer is about to become subject to any of them and notifies the Buyer accordingly, then, without limiting any other right or remedy available to the Seller, the Seller may cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.
- 9.2 For the purposes of clause 9.1, the relevant events are:
- 9.2.1 the Buyer 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;
- 9.2.2 the Buyer 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 other than (where the Buyer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- 9.2.3 (being a company) 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 Buyer, other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- 9.2.4 (being an individual) the Buyer is the subject of a bankruptcy petition or order;
- 9.2.5 a creditor or encumbrancer of the Buyer 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;
- 9.2.6 (being a company) 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 Buyer;
- 9.2.7 (being a company) a floating charge holder over the Buyer's assets has become entitled to appoint or has appointed an administrative receiver;
- 9.2.8 a person becomes entitled to appoint a receiver over the Buyer's assets or a receiver is appointed over the Buyer's assets;
- 9.2.9 any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2.1 to clause 9.2.7 (inclusive);
- 9.2.10 the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
- 9.2.11 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; and
- 9.2.12 (being an individual) the Buyer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 9.3 Termination of the Contract, however arising, shall not affect any of 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.
- 10 STATUS OF BUYER**
- 10.1 The Buyer warrants to the Seller that it has experience of dealing with goods of the same kind as the Goods and warrants to use the Goods only in the manner and for the purposes for which they are designed.
- 11 GENERAL**
- 11.1 Any notice or other communication required or permitted to be given by either party to the other under or in connection with these Conditions shall be in Writing, addressed to that other party at its registered office (if it is a company) or principal place of business (in any other case) or such other address as may at the relevant time have been notified to the other party in Writing pursuant to this provision, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or email.
- 11.2 A notice or other communication shall be deemed to have been received:
- 11.2.1 if delivered personally, when left at the party's registered address;
- 11.2.2 if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting;
- 11.2.3 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 or e-mail, one Business Day after transmission.
- 11.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 11.4 The Seller may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Buyer shall not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 11.5 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 the further exercise of that or any other right or remedy. 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.
- 11.6 If any provision of these Conditions is held by any court or competent authority to be invalid, illegal or unenforceable in whole or in part, that Condition or part-Condition shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected.
- 11.7 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.
- 11.8 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.
- 11.9 The 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 the laws of England and the parties submit to the exclusive jurisdiction of the English courts.
- 11.10 No term contained in these Conditions shall be enforceable by a third party who is not a party to the contract and no terms contained in these Conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party and shall have no rights under or in connection with it.