

Terms and Conditions of Contract for Goods

1 Interpretation

1.1 In these terms and conditions:

- “Agreement” means the agreement between (i) the Supplier and (ii) the Customer to incorporate these terms and conditions, constituted by the Supplier’s Order Confirmation;
- “Charges” means the charges for the Goods as specified in the Order Confirmation;
- “Confidential Information” means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
- “Customer” means the company, firm body or person purchasing the Goods;
- “Date of Delivery” means that date by which the Goods must be Delivered to the Customer, as specified in the Order Confirmation;
- “DPA” means the Data Protection Act 2018;
- “Goods” means the goods to be supplied by the Supplier to the Customer under the Agreement;
- “Order Confirmation” Means the Supplier’s acceptance relating to the order for Goods to be supplied by the Supplier to the Customer in accordance with the terms of the Agreement;
- “Party” the Supplier or the Customer (as appropriate) and “Parties” shall mean both of them;
- “Purchase Order Number” means the Customer’s unique number relating to the order for Goods to be supplied by the Supplier to the Customer in accordance with the terms of the Agreement;
- “Specification” means the specification for the Goods to be supplied by the Supplier to the Customer (including as to quantity, description and quality) as specified in the Order Confirmation;
- “Staff” means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the

- performance of the Supplier's obligations under the Agreement;
- "Supplier" means the person named as Supplier in the Order Confirmation;
- "VAT" means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
- "Working Day" means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;

1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;

1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;

1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

2 Basis of Agreement

2.1 The Supplier's quotations are not binding on the Supplier and the Agreement will only come into being upon acceptance by the Supplier of the Customer's Purchase Order.

2.2 The Purchase Order constitutes an offer by the Customer to purchase the Goods subject to and in accordance with the terms and conditions of the Agreement.

2.3 The Order Confirmation constitutes acceptance by the Supplier to supply the Goods subject to and in accordance with the terms and conditions of the Agreement.

2.4 These terms and conditions of the Agreement shall form an integral part of all offers for the sale of goods by the Supplier. Any condition put forward by the Customer will only have effect if accepted by the Supplier in writing.

3 Supply of Goods

3.1 In consideration of the Customer's agreement to pay the Charges, the Supplier shall supply the Goods to the Customer subject to and in accordance with the terms and conditions of the Agreement.

3.2 In supplying the Goods, the Supplier shall co-operate with the Customer in all matters relating to the supply of Goods and comply with all the Customer's instructions.

3.3 The Supplier shall supply the Goods in accordance with the Specification. The Supplier warrants, represents, undertakes and guarantees that the Goods supplied under the Agreement shall:

- 3.3.1 be free from defects (manifest or latent), in materials and workmanship and remain so for 12 months after delivery;
- 3.3.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and comply with any applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;
- 3.3.3 conform with the specifications;
- 3.3.4 and the Supplier itself shall, comply with all applicable laws.

3.4 Where Goods are to be supplied from stock, such supply is subject to availability of stocks at the date of delivery.

3.5 In the event that the Supplier gives any advice on material selection or other similar assistance, it is given free of charge without any undertaking, representation or warranty and the Supplier shall have no liability neither compensatory nor consequential for any such advice or assistance.

3.6 These conditions apply to Services in the same way as they apply to Goods.

4 Charges, Payment and Recovery of Sums Due

4.1 The Charges for the Goods shall be as set out in the Order Confirmation and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Goods. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the supply of the Goods, including but not limited to the costs of packaging, insurance, delivery, unloading, stacking and carriage.

4.2 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Goods.

4.3 Following Delivery of the Goods, the Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Goods supplied in the invoice period.

4.4 In consideration of the supply of the Goods by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order Number.

4.5 If the Customer fails to consider and verify an invoice in a timely fashion the invoice shall be regarded as valid and undisputed for the purpose of paragraph 4.4 after a reasonable time has passed.

4.6 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Goods unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 14. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 16.

4.7 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.

4.8 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:

4.8.1 provisions having the same effects as clauses 4.3 to 4.7 of this Agreement.

4.9 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer.

5 Cancellation

5.1 The Customer shall have the right to cancel the order for the Goods, or any part of the Goods, which have not yet been Delivered to the Customer. The cancellation shall be made in writing. Without prejudice to the generality of the foregoing, the Customer shall pay such Charges or that part of the Charges for Goods which have been Delivered to the Customer or, on the deemed date of service of the notice of cancellation, are already in transit and the costs of materials which the Supplier has purchased to fulfil the order for the Goods and which cannot be used for other orders or be returned to the supplier of those materials for a refund.

5.2 Where the Customer orders Goods of a type, size or quality not normally produced by the Supplier, the Supplier will use all reasonable endeavours to execute the order, but if it proves impossible, impracticable or uneconomical to carry out or complete the order, the Supplier reserves the right to cancel the order. In which event the Customer will only be liable to pay for the part of it actually delivered or performed.

6 Delivery

6.1 The Supplier shall endeavour to deliver the Goods to the Customer on or by the Date of Delivery. The dates for delivery are approximate only and unless otherwise expressly stated, time is not of essence for delivery. The Supplier will not be liable in any circumstances for

the consequences of any delay in delivery or failure to deliver or perform.

6.2 No delay shall entitle the Customer to reject any delivery or any further instalment or part of the order or to repudiate the contract or the order.

6.3 In the event that the quantity of the goods is agreed on the basis of weight, the quantity to be supplied can be adjusted by the Supplier to deviate up to 10% (+/-) from the agreed weight of the total delivery for each type of product/grade, and the price shall be adjusted accordingly.

6.4 Delivery of the Goods shall be accompanied by a delivery note which shows the Purchase Order Number and the type and quantity of the Goods and, in the case of part Delivery, the outstanding balance remaining to be Delivered.

6.5 If for any reason the Customer is unable to accept delivery of Goods when due the Supplier may arrange storage of the Goods at the Customer's risk and the Customer shall be liable to the Supplier for the reasonable costs (including insurance) of such storage. This provision is without prejudice to any other right which the Supplier may have in respect of the Customer's failure to take delivery of the Goods or pay for them in accordance with the Terms and Conditions set out in the Agreement.

6.6 The Supplier uses all reasonable endeavours to ensure, where necessary, suitability of packing before despatch, but no claim will be accepted by the Supplier for breakage or damage in transit on the ground of alleged unsuitability for packing.

7 Property and Guarantee of Title

7.1 Notwithstanding that risk in the goods shall pass to the customer in accordance with Clause 6, title to the goods (whether separate and identifiable or incorporate in or mixed with other goods) shall remain with the Supplier until payment in full has been received by the supplier:

7.1.1 For those goods;

7.1.2 For any other goods supplied by the Supplier;

7.1.3 Any other monies due from the Customer to the supplier on any account;

7.2 Until title to the goods passes to the Customer under Clause 7.1, the Customer shall keep the goods separately and readily identifiable as the property of the supplier;

7.3 Any resale by the Customer of Goods in which property has not passed to the Customer shall (as between the Supplier and the Customer only) be made by the Customer as Agent for the Supplier;

7.4 Goods shall be deemed sold or used in the order delivered to the Customer;

7.5 At anytime before title to the goods passed to the Customer (whether or not any payment to the supplier is then overdue or the Customer is otherwise in breach of any obligations to the Supplier), the Supplier may without prejudice to any other of its rights:

7.5.1 Retake possession of all or any part of the Goods and enter any premises for that purpose (or authorise others to do so) which the Customer hereby authorises;

7.5.2 Require delivery up to it all or any part of the Goods.

7.6 The Supplier may at any time appropriate sums received from the Customer as it thinks fit notwithstanding any purported appropriation by the Customer.

7.7 Each Clause and Sub-Clause of Clause 7 is separate, severable and distinct and accordingly in the event of any of them being for any reason whatever unenforceable according to its terms, the others shall remain in full force and effect.

8 Assignment and Sub-Contracting

8.1 None of the rights or obligations of the Customer under the contract may be assigned or transferred in whole or in part without the prior written consent of the Supplier.

8.2 The Supplier shall be entitled to sub-contract any work relating to the contract without obtaining the consent of, or giving notice to, the Customer.

9.1 Hire-work and work involving the use of the Customer's materials is undertaken by the Supplier only on the express understanding that the Supplier cannot be responsible for any distortion, faults or defects which appear or develop during, or are caused by, the work, however arising, even resulting from any fault or negligence or mistake of the Supplier. The Supplier gives no guarantee or warranty of any kind but subject to the availability of capacity and facilities it will endeavour to correct any such distortion, faults or defects at the Customer's expense and risk. The Supplier shall not in any circumstances be liable for damages, compensation, costs, expenses, losses or other liabilities, whether direct or consequential and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by law. of the rights or obligations of the Customer under the contract may be assigned or transferred in whole or in part without the prior written consent of the Supplier.

9.2 The Company shall not be obliged to check or test material delivered for hire-work unless specifically requested to do so.

9.3 If the Customer specifically requests the Company to check the material or to test it whether before or after treatment or hire-work has been carried out the Company shall be entitled to charge at its current rates for such checking and testing.

9.4 Unless it is otherwise expressly agreed in writing any waste material resulting from the performance of any hire-work shall become the property of the Supplier but it is herein expressly agreed between the Supplier and the Customer that the Supplier may at any time order the Customer to remove any such waste material and the Customer hereby agrees that on receipt of any such order from the Supplier it will forthwith comply with such order.

9.5 The Customer warrants that:

9.5.1 the material supplied for hire-work will correspond with the description shown in the Schedule and will (if requested) provide test certificates obtained at its own expense;

9.5.2 all material supplied is and will be suitable to be treated as hire-work in the manner specified in the Schedule and will not be in a defective or dangerous condition;

9.5.3 the material supplied will be prepared and ready for treatment in accordance with the Schedule. Any additional work which is required to be done by the Company prior to commencing the hire-work shall be the subject of an additional charge.

9.6 The Company shall be entitled to carry out the hire-work in reliance upon the warranties contained in sub-clause 9.5 of this clause 9 and shall not be obliged to inspect the material or make further investigation to ensure that such warranties are correct and accurate when the material is delivered to the Company.

9.7 In the event of the Customer being in breach of the warranties contained in subclause 9.5 of this clause 9:

9.7.1 the Company shall be entitled to charge the price stipulated in the Schedule for the hire-work together with a charge for any extra or additional work arising from such breach of warranty including the cost of re-treating the material if necessary;

9.8 The Company shall not be responsible for any loss or damage of whatsoever kind (including consequential loss) suffered by any party (including the Customer) as a result of any breach by the Customer of the warranties contained in sub-clause 9.5 of this clause 9.

9.9 The Customer agrees that it will reimburse the Supplier for any damage caused to any plant or machinery of the Supplier by the material supplied by the Customer to the Supplier.

9.10 The Company will have a lien on all the Customer's goods and materials in the possession of the Supplier for hire-work in respect of all sums owing to the Supplier for such hire-work.

9.11 Where the material supplied for hire-work is delivered to the Company by a third party on behalf of the Customer the Company may inspect the material for the purposes of ascertaining whether the material delivered corresponds to the description of the material

given by the Customer which is the subject of the hire-work contract or generally and the Company shall be entitled to charge an additional sum in respect of such inspection and the necessary and incidental administration costs of the Company in connection therewith, such charge to be at the rate of charge made by the Company at the date of carrying out such work.

10 Intellectual Property and Indemnity

10.1 The Customer shall indemnify the Supplier against all actions, costs (including the cost of defending any legal proceedings), claims, proceedings, accounts and damages in respect of any infringement or alleged infringement of any patent, registered design, unregistered design, design right, copyright, trademark or other industrial or intellectual property rights resulting from compliance by the Supplier with the Customer's instructions, whether express or implied.

10.2 The Customer agrees upon demand to indemnify the Supplier against all losses, damages, injury, costs and expenses of whatever nature suffered by the Supplier to the extent that the same are caused by or related to:

10.2.1 designs, drawings or specifications given to the Supplier by the Customer in respect of the Goods:

10.2.2 defective materials or products supplied by the Customer to the Supplier; or

10.2.3 the improper incorporation, assembly, use, processing, storage or handling of Goods by the Customer.

10.3 The Customer shall promptly notify the Supplier of any infringement claim made against it relating to any Goods and, subject to any statutory obligation requiring the Customer to respond, shall permit the Supplier to have the right, at its sole discretion to assume, defend, settle or otherwise dispose of such claim. The Customer shall give the Supplier such assistance as it may reasonably require to dispose of the claim and shall not make any statement which might be prejudicial to the settlement or defence of the claim.

11 Protection and Security of Data

11.1 The Supplier shall, and shall procure that all Staff shall, comply with

requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.

11.2 When handling Customer data, the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.

12 Liability

12.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

12.2 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

- 12.2.1 death or personal injury caused by its negligence or that of its Staff;
- 12.2.2 fraud or fraudulent misrepresentation by it or that of its Staff;
- 12.2.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- 12.2.4 any other matter which, by law, may not be excluded or limited.

13 Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 30 days, either Party may terminate the Agreement by written notice to the other Party.

14 Termination

14.1 The Supplier shall notify the Customer as soon as practicable of any change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988.

14.2 In addition to the Supplier's statutory rights, the Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.

14.3 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties and any other term or condition of the Agreement that either expressly or by implication has effect after termination.

14.4 If the Customer enters into a deed or arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or it shall pass a resolution or the Court shall make an order that the Customer shall be wound up or if a receiver (including an administrative receiver) shall be appointed of any of the assets or undertaking of the Customer or if the Customer suffers the appointment or the presentation of a petition for the appointment of an administrator or if circumstances shall arise which entitle the Court or a creditor to appoint a receiver (including an administrator receiver) or a manager or which entitle the Court to make a winding-up order or if the Customer takes or suffers any similar action in consequence of debt or if the financial responsibility of the Customer shall in the opinion of the Supplier 'become impaired' or if the Customer shall commit any breach of part of the contract the Supplier may without prejudice to its rights and remedies under these conditions top all Goods in transit and suspend further deliveries and by notice to the Customer may terminate the contract immediately.

15 Compliance

15.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.

15.2 The Supplier shall:

15.2.1 comply with the reasonable requirements of the Customer's security arrangements;

15.2.2 comply with all the Customer's health and safety measures;

15.2.3 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

15.3 The Goods shall be packed and marked in a proper manner and in accordance with any instructions specified in the Purchase Order, any statutory requirements and any requirements of the carriers. All packaging materials shall be considered non-returnable.

16 Dispute Resolution

16.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

16.2 If the dispute cannot be resolved by the Parties within one month, either Party may exercise any remedy it has under applicable law.

17 General

17.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.

17.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.

17.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.

17.4 The Agreement contains the whole agreement between the Parties and supersedes

and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.

17.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.

17.6 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

18 Notices

18.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 0, e-mail to the address of the relevant Party set out in the Order Confirmation, or such other address as that Party may from time to time notify to the other Party in accordance with this clause.

18.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.

18.3 Notices under clauses 13 (Force Majeure) and 14 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 0.



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19 Governing Law and Jurisdiction

19.1 The validity, construction and performance of the Agreement, and all contractual and non contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.