

# VINK UK LIMITED TERMS AND CONDITIONS OF SUPPLY (BUSINESS CUSTOMERS)

## 1. INTERPRETATION

In these Conditions, **VINK UK LIMITED T/AS Specialist Engineering Plastics**(CRN: 1220776) is called the 'Supplier'. The following definitions and rules of interpretation apply in these Conditions.

### 1.1 Definitions:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 18.8.

**Contract:** the contract between the Supplier and the Customer for the supply of Goods and/or Services comprised of these Conditions, the Specification and the Order Confirmation (or, where there is no Order Confirmation, the Order).

**Customer:** the person or firm who purchases the Goods and/or Services from the Supplier.

**Delivery Location:** has the meaning given in clause 4.1.

**Force Majeure Event:** has the meaning given to it in clause 17.

**Goods:** the goods (or any part of them) set out in the Order Confirmation.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, the Customer's written acceptance of the Supplier's quotation, the Customer's telephone Order, the Customer's order placed in-store or submitted via the Supplier's website, as the case may be.

**Order Confirmation:** Supplier's written acceptance of an Order.

**Services:** the services (if any) supplied by the Supplier to the Customer as set out in the Order Confirmation (or, where there is no Order Confirmation, in the Order) and/or Specification.

**Specification:** the specification for the Goods and/or Services (as applicable), including any relevant plans or drawings, which is agreed in writing by the Customer and the Supplier and clearly labelled as the specification, or (in the absence of the same) the goods specification set out on the Supplier's website.

### 1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to **writing** or **written** includes fax and email.

## 2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted on the earlier of:

- (a) when the Supplier issues an Order Confirmation; or
- (b) upon the commencement by Supplier of any act consistent with fulfilment of the Order (including but not limited to commencing manufacture of the Goods, picking or packing the Goods, dispatching the Goods or purchasing any materials required to fulfil the Order), in each case, at which point and on which date the Contract shall come into existence.

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods (including particulars, dimensions and weights) or illustrations or descriptions of the Services contained on the Supplier's website or in the Supplier's catalogues or brochures (excluding any Specification) are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract nor have any contractual force.

2.4 The Customer warrants and represents that the contents of the Order (and any specification(s) submitted by the Customer) are complete and accurate.

2.5 The Customer is solely responsible for ensuring that the Specification is adequate, having regard to the Customer's intended use of the Goods. The Supplier makes no warranty or representation as to the suitability of the Goods for any particular purpose.

2.6 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

2.7 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 14 days from its date of issue, or for such other period as is referenced in the quotation.

2.8 The Customer is not entitled to amend or cancel an Order without the express written agreement of the Supplier, and the Supplier may attach such conditions or impose such charges (up to the full price of the Goods and including in respect of third party goods or services purchased in connection with the Order) in respect of any amendment or cancellation as it deems appropriate in its sole discretion.

2.9 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

## 3. GOODS

3.1 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 3.1 shall survive termination of the Contract.

3.2 The Supplier reserves the right to amend the Goods and/or Services (and any Specification):

- (a) if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event; and
- (b) where doing so would not materially affect the nature or quality of the Goods or Services.

## 4. DELIVERY

4.1 The Supplier shall deliver the Goods to the location set out in the Order Confirmation (or, where there is none, the location set out in the Order) or such other location as the parties may agree in writing (**Delivery Location**) at any time after the Supplier accepts the Order.

4.2 Where the parties agree in writing that the Customer shall collect the Goods from the Supplier's premises, the Delivery Location shall be the Supplier's premises, and the Customer shall collect the Goods within 3 Business Days of the Supplier notifying the Customer that the Goods are ready for collection.

4.3 Delivery of the Goods shall be completed when the Supplier makes the Goods available for unloading of the Goods at the Delivery Location, save in the case of Goods that are to be collected by the Customer pursuant to clause 4.2, where delivery shall be completed when the Supplier makes the Goods available for loading at the Delivery Location.

4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence.

4.5 The Supplier shall not be liable for any delay in delivery or failure to deliver the Goods or Services that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the performance of the Contract.

4.6 If the Customer fails to take delivery of the Goods on the delivery date (or to collect the Goods within the period set out in clause 4.2) then, except where such failure or delay is caused by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the date on which delivery was intended to take place (or for Goods that are to be collected, on the date on which the Supplier notified the Customer that the Goods were ready for collection); and
- (b) the Supplier shall store the Goods until delivery takes place, may charge the Customer for all related costs and expenses (including insurance), plus an administrative charge of 2% of the invoice value of the Goods per month, and shall not be required to attempt redelivery until the Customer has paid all such charges.

4.7 If 5 Business Days after the date referred to in clause 4.6(a), the Customer has not taken actual delivery of (or collected) the Goods, the Supplier may resell or otherwise dispose of part or all of the Goods and, charge the Customer for the costs of disposal and any shortfall below the price of the Goods.

- 4.8 If the Supplier delivers up to and including 10% more or less (with regards to number of units, dimensions, and/or weight) than the quantity of Goods ordered, the Customer may not reject them, and the Supplier shall nevertheless be deemed to have delivered the quantity of Goods ordered. Section 30 of the Sale of Goods Act 1979 shall not apply to the Contract.
- 4.9 Where the Goods are manufactured or supplied in accordance with a Specification, the Customer acknowledges and agrees that deviations or tolerances of up to 10% shall not constitute a failure by the Supplier to comply with the Specification and the Customer shall not be entitled to reject the Goods in such circumstances.
- 4.10 The Customer shall notify the Supplier in writing within 3 days of delivery of any claim for short delivery or damage in transit. If the Customer does not provide such notice, the Goods will be deemed to have been delivered in the quantities set out in the Order Confirmation (or, where there is no Order Confirmation, in the Order) and in accordance with the Contract. The package and contents must be retained for examination. The Supplier's liability for short delivery or damage that occurs during transit is limited to making good the shortage or replacing any Goods proved to have been damaged in transit.
- 4.11 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.12 Where requested to do so by the Supplier, the Customer shall promptly and at its cost return any packaging materials delivered with the Goods to the Supplier.
- 5. EU MOVEMENT**
- 5.1 The Customer must inform the Supplier in writing before dispatch if any Goods supplied under these Conditions are intended, likely to, or at risk of being moved into the European Union (including via Northern Ireland).
- 5.2 Where such movement occurs or the Goods are treated as "at risk" under the Windsor Framework (being the UK-EU arrangements governing the movement of goods between Great Britain and Northern Ireland, including any related customs processes such as green lane/red lane procedures and UK Internal Market compliance schemes), the Customer shall:
- (a) provide all information reasonably required for HMRC compliance; and  
(b) pay or reimburse the Supplier for any customs duties, tariffs, taxes, or related charges arising.
- 5.3 Where the Goods are declared "not at risk" and are therefore not moved into the European Union, the Customer must provide evidence on request that the Goods have remained in Northern Ireland or otherwise within the UK, sufficient to satisfy HMRC and Windsor Framework compliance requirements. The Customer shall ensure that such Goods do not leave Northern Ireland or the UK under any circumstances without prior written consent from the Supplier. In the event that any movement outside Northern Ireland or the UK occurs or is anticipated, the Customer shall immediately notify the Supplier in writing having become aware of such movement. Failure to comply with this obligation shall constitute a material breach of these Conditions.
- 5.4 The Customer shall indemnify the Supplier for any loss or liability resulting from failure to notify or provide accurate information. The Supplier may withhold delivery until compliance obligations are satisfied.
- 6. QUALITY**
- 6.1 The Supplier warrants that on delivery the Goods shall conform in all material respects with any applicable Specification. It is the Customer's responsibility to ensure that the Goods are sufficient and suitable for the purpose to which they are to be put.
- 6.2 Notwithstanding clause 6.4, in the case of Goods (or parts thereof) not manufactured by the Supplier, the Customer shall only be entitled to the benefit, insofar as it may be passed on to the Customer, of any rights the Supplier may have against the manufacturer or supplier of such Goods, and the Supplier's liability in such cases (and the Customer's sole remedy) is limited to making the benefit of such rights available to the Customer.
- 6.3 Where the Customer believes that the Goods are not in conformity with the warranty set out in clause 6.1 or otherwise defective, the Customer must: (a) give notice in writing to the Supplier in reasonable detail within 3 days of delivery that some or all of the Goods are defective; (b) give the Supplier a reasonable opportunity of examining such Goods; and (c) (if asked to do so by the Supplier) return such Goods to the Supplier's place of business at the Customer's cost.
- 6.4 Subject to clause 6.5 and the Customer's compliance with clause 6.1, if the Goods do not comply with the warranty at clause 6.1 and where clause 6.2 does not apply, the Supplier shall at its option repair or replace the defective Goods, or refund the price of the defective Goods.
- 6.5 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 6.1 or for any other defect in the Goods if:
- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 6.3;
- (b) the defect arises because the Customer failed to follow the Supplier's or any manufacturer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of the Supplier following any instruction, drawing, design or Goods Specification supplied by the Customer;
- (d) the defect arises as a result of the Goods being operated outside of their intended use, including any use described in the Specification;
- (e) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (g) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 6.6 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1 or for any other defect in the Goods.
- 6.7 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 7. TITLE AND RISK**
- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 7.2 Title to the Goods shall not pass to the Customer until the earlier of: (a) the time at which the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods or services that the Supplier has supplied to the Customer, in which case title to the Goods shall pass at the time of payment of all such sums; and (b) the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 7.4.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property; (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery; (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 15.2(a) to clause 15.2(f) (inclusive); and (e) give the Supplier such information as the Supplier may reasonably require from time to time relating to: (i) the Goods; and (ii) the ongoing financial position of the Customer.
- 7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time: (a) it does so as principal and not as the Supplier's agent; and (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 7.5 At any time before title to the Goods passes to the Customer, the Supplier may: (a) by notice in writing, terminate the Customer's right under clause 7.4 to resell the Goods or use them in the ordinary course of its business; and (b) require the Customer to deliver up all Goods in its possession that have not been resold or irrevocably incorporated into another product, and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- 8. SERVICES**
- 8.1 This clause 8 shall apply only to the extent that the Supplier has agreed to supply Services to the Customer under the Contract.
- 8.2 The Supplier warrants that it shall supply the Services to the Customer: (a) in accordance with the Specification in all material respects; and (b) using reasonable care and skill.
- 8.3 Any performance dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 8.4 The Customer shall:
- (a) keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises or under its control in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
- (b) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- (c) prepare the Customer's premises for the supply of the Services; and  
(d) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start.
- 9. CUSTOMER'S OBLIGATIONS**
- 9.1 The Customer shall:
- (a) co-operate with the Supplier in all matters relating to the performance of the Contract;
- (b) provide the Supplier with such information and materials as the Supplier may reasonably require in order to perform the Contract, and ensure

- that such information is complete and accurate in all material respects; and
- (c) comply with all applicable laws and regulations, including all applicable laws and regulations of the country for which the Goods are destined.
- 9.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer (**Customer Default**):
- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default,
- (b) the Supplier shall not be liable for any costs or losses incurred by the Customer arising from the Supplier's failure or delay to perform any of its affected obligations; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 9.3 If the Order is for delivery to a Delivery Location outside of the UK, the Order may be subject to import duties and taxes which are applied when the Goods reach that destination. The Customer acknowledges that the Supplier has no control over these charges and cannot predict their amount. The Customer is responsible for payment of any such import duties and taxes.
- 10. CHARGES AND PAYMENT**
- 10.1 The price for Goods:
- (a) shall be the price set out in the Order Confirmation or, if no price is quoted, the price set out in the price list (if any) agreed in writing with the Customer from time to time; and
- (b) unless otherwise agreed in writing with the Supplier, shall be exclusive of all duties and taxes and any costs related to packaging, insurance and transport of the Goods, which the Supplier shall be entitled to charge to the Customer.
- 10.2 In respect of online Orders, if the Supplier discovers an error in the price of the Goods ordered, the Supplier may contact the Customer to give the Customer the option of continuing to purchase the Goods at the correct price or cancelling the Order, or may treat the Order as cancelled and shall notify the Customer in writing in such event. If the Supplier mistakenly accepts and processes an Order where a pricing error is obvious and unmistakable and could reasonably have been recognised by the Customer as a mispricing, the Supplier may cancel supply of the Goods and refund the Customer any sums paid.
- 10.3 The charges for Services shall be calculated as set out in the Order Confirmation, or, if no price is stated, the price agreed in writing with the Customer from time to time.
- 10.4 The Supplier reserves the right to increase the price of the Goods or Services, by giving notice to the Customer at any time before delivery (or, in the case of the Services, during the period of delivery), to reflect any increase in the cost of performing the Contract that is due to: (i) interruptions, delays, increases in taxes and duties, increases in labour, materials and other manufacturing costs and foreign exchange fluctuations, or any factor beyond the control of the Supplier; and (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods or Services ordered, or the respective specifications; and (iii) any delay caused by any instructions of the Customer in respect of the Contract or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the performance of the Contract.
- 10.5 Unless otherwise agreed in writing by the parties, the Supplier shall be entitled to charge and/or invoice the Customer in advance of, or on or at any time after delivery of the Goods or performance of the Services.
- 10.6 Where the Supplier does not charge for the Goods at the time of accepting the Order, the Customer shall pay each invoice submitted by the Supplier: (a) within 30 days of the date of the invoice, or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and (c) time for payment shall be of the essence of the Contract.
- 10.7 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 10.8 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's other remedies, (i) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 10.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%, and (ii) the Supplier may withdraw or cancel any credit facility available to the Customer (upon which any relevant invoices shall immediately become due).
- 10.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 11. INTELLECTUAL PROPERTY RIGHTS**
- 11.1 All Intellectual Property Rights in the Goods and in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier (or its licensors, as applicable).
- 11.2 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.
- 12. INDEMNITY**
- 12.1 The Customer shall indemnify the Supplier and hold the Supplier harmless against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with:
- (a) any claim made against the Supplier by a third party for death, personal injury, damage to property or otherwise arising as result of any act or omission of the Customer or its personnel, agents, subcontractors or consultants;
- (b) any breach of the Contract by the Customer or its personnel, agents, subcontractors or consultants, or any act, omission, negligence or wilful misconduct on the part of the Customer or its personnel, agents, subcontractors or consultants; and
- (c) the enforcement of this Contract by the Supplier.
- 12.2 This clause 12 shall survive termination of the Contract.
- 13. CONFIDENTIALITY**
- 13.1 Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 13.2. The Supplier's confidential information shall include any information of a confidential or proprietary nature relating to the operations, premises, processes, product and pricing information, know-how, designs, specifications, formulae, drawings, samples, prototypes, techniques, trade secrets or software of the Supplier or its suppliers.
- 13.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors or subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 14. LIMITATION OF LIABILITY**
- 14.1 The restrictions on liability in this clause 14 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 14.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 14.3 Subject to clause 14.2, the Supplier's total liability to the Customer for all losses, damages, claims and expenses arising under or in connection with the Contract will in no circumstances exceed a sum equal to the aggregate price of the Goods and Services specified in the Order Confirmation, or, where there is no Order Confirmation, the aggregate price of the Goods and Services purchased under the Contract.
- 14.4 Subject to clause 14.2, the Supplier shall not be liable to the Customer for any of the following losses: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to goodwill; and indirect or consequential loss.
- 14.5 Any claim by the Customer against the Supplier arising in respect of any Goods shall be made in writing and notified to the Supplier (such notice identifying the event and the grounds for the claim in reasonable detail) within 14 days of the date upon which the Customer became or ought reasonably to have become aware of any event or occurrence alleged to give rise to such claim, and any claim not made and notified as aforesaid shall be deemed to be waived and absolutely barred except where the Customer can show that it was impossible for him to comply with this timeframe, and that the Customer has made the claim as soon as it was reasonably possible to do so.

- 14.6 Notwithstanding clause 14.5 above, the Supplier shall in any event be discharged of all liability whatsoever howsoever arising in respect of any Goods provided by the Supplier unless written notice thereof is given to the Supplier (such notice identifying the event and the grounds for the claim in reasonable detail) within 9 months from the date of the event or occurrence alleged to give rise to a cause of action against the Supplier.
- 14.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 14.8 This clause 14 shall survive termination of the Contract.
- 15. TERMINATION**
- 15.1 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract by giving the Customer not less than 7 days' notice in writing.
- 15.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
- the Customer fails to pay any amount due under the Contract or any other contract between the Customer and the Supplier on the due date for payment;
  - the Customer commits a breach of its obligations under the Contract or any other contract between the Customer and the Supplier and (if such breach is remediable) fails to remedy that breach within 2 days after receipt of notice in writing to do so;
  - the Customer 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), obtaining a moratorium, 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;
  - the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy;
  - the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - there is a change of control of the Customer (where 'control' has the meaning given in section 1124 of the Corporation Tax Act 2010).
- 15.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract or any other contract between the Customer and the Supplier on the due date for payment, or the Customer commits or becomes subject to any of the events listed in clause 15.2(a) to clause 15.2(f) (or the Supplier reasonably believes that the Customer is about to become subject to any of them).
- 16. CONSEQUENCES OF TERMINATION**
- 16.1 On termination of the Contract:
- the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
  - the Customer shall return any Goods which have not been fully paid for, and any Supplier Materials. If the Customer fails to do so, then the Supplier may enter any premises at which the Goods or Supplier Materials are located and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 16.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and 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.
- 16.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.
- 17. FORCE MAJEURE**
- 17.1 **Force Majeure Event** means any circumstance not within the Supplier's reasonable control including, without limitation acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts; non-performance by suppliers or subcontractors; and interruption or failure of utility service.
- 17.2 The Supplier shall not 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 a Force Majeure Event. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 3 months, either party may terminate the Contract by giving 14 days' written notice to the affected party.
- 18. GENERAL**
- 18.1 **Assignment and other dealings.** (a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.
- 18.2 Notices**
- Any notice given to a party under or in connection with the Contract shall be in writing and shall be (a) delivered by hand or by pre-paid first-class post or other next working day delivery service or airmail at its registered office; or (b) sent by email to the address notified for such purposes (with a copy to follow by first-class post). Any notice shall be deemed to have been received:
    - if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
    - 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 or at the time recorded by the delivery service;
    - if sent by airmail, at 9.00 am on the fifth Business Day after posting or at the time recorded by the delivery service; and
    - if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 18.2(a)(iv), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
  - 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.
- 18.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 18.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 18.4 **Waiver.** 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 prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 18.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 18.6 Entire agreement**
- 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.
  - 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 or negligent misrepresentation based on any statement in the Contract.
- 18.7 **Third party rights.** Unless it expressly states otherwise, 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.
- 18.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 18.9 **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.
- 18.10 **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.