

TERMS AND CONDITIONS OF SALE

1. Interpretation

- 1.1 The following definitions and rules of interpretation apply in these terms and conditions of business.

the Company: James H Heal & Co Limited (registered number 414668) or such company associated with or a subsidiary of James H Heal & Co Limited as may be selling Goods or Services.

the Contract: any contract between the Company and the Customer for the sale and purchase of Goods and/or the provision of Services, incorporating these conditions.

the Customer: the person, partnership, firm or company who purchases the Goods or Services from the Company.

Delivery: completion of delivery of an order in accordance with condition 4.

Delivery Date: the date specified for delivery of an order in accordance with condition 4.

Force Majeure Event: has the meaning given in condition 16.

Goods: any goods agreed in the Contract to be supplied to the Customer by the Company (including any part or parts of them) as set out in the order acknowledgement from the Company.

Insolvency: where the Customer is unable to pay its debts or has a winding up petition issued against it or has a receiver, administrator or administrative receiver appointed to it or commits an act of bankruptcy or has a bankruptcy petition issued against him.

Manufacturer: any manufacturer other than the Company of the Goods sold.

Price: is the sum notified to the Customer in accordance with condition 10.

Services: any services agreed in the Contract to be provided by the Company to the Customer as set out in the order acknowledgement from the Company.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax.

- 1.2 General: All orders are accepted on the terms, conditions and exclusions herein contained. These terms, conditions and exclusions shall not be varied, nor shall application to any order be excluded or limited in any way whatsoever, except as agreed by the Company in writing.
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Words in the singular include the plural and in the plural include the singular.

- 1.5 A reference to one gender includes a reference to the other gender.
- 1.6 Condition headings are for convenience only and do not affect the interpretation of these conditions.
- 1.7 Any words following the terms including, include, in particular 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.

2. Application of Terms

- 2.1 Subject to any variation under condition 2.3 the Contract shall be subject to these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document). No representative or agent of the Company has any authority to agree any terms or make any representations inconsistent with these conditions or to enter into any contract except on the basis of them.
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods or Services shall have no effect unless expressly agreed in writing and signed by a director of the Company. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.4 Each order or acceptance of a quotation for Goods or Services by the Customer from the Company shall be deemed to be an offer by the Customer to buy Goods or Services subject to these conditions, which the Company shall be free to accept or decline at its absolute discretion.
- 2.5 No order placed by the Customer shall be deemed to be accepted by the Company until a written order acknowledgement issued by the Company or (if earlier) the Company delivers the Goods or notifies the Customer that the Goods are ready for collection or the Company tenders the Services to the Customer.
- 2.6 The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.7 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an order acknowledgement to the Customer. Unless otherwise specified, any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

3. Description

- 3.1 The quantity and description of the Goods or Services shall be as set out in the Company's order acknowledgement.

- 3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods or Services described in them. They shall not form part of the Contract and this is not a sale by sample.

4. Delivery

- 4.1 Unless otherwise agreed in writing completion and Delivery Dates are not guaranteed, are a guide only and whilst the Company will make every effort to adhere to proposed timescales, time for Delivery or performance is not of the essence in any Contract with the Customer.
- 4.2 The Company shall be under no liability whatsoever for any delay in performance of any order by reason or in consequence of a Force Majeure Event, or any other delay outside of its control including but not limited to labour and civil commotion, natural catastrophe, government restrictions, shortage or lack of instructions.
- 4.3 Unless otherwise agreed in writing by the Company, Delivery of Goods is taken at the Company's place of business within 14 days of notification to the Customer that the Goods are ready for Delivery and risk in Goods passes to the Customer at the time of Delivery at the latest. Any packaging which the Company agrees to provide may be charged to the Customer.
- 4.4 If the Goods are in the possession of the Company on the date the order acknowledgement is issued, the Customer shall take Delivery of the Goods within 14 days of the Company giving it notice that the Goods are ready for Delivery, unless agreed otherwise in writing. If the Goods are not in the possession of the Company on the date the order acknowledgement is issued then the Customer shall take Delivery of the Goods by a date for Delivery as agreed in writing between the parties. If the Customer has not collected the Goods or given instructions to the Company for Delivery or shipment of the Goods within 14 days of being notified that they are ready for Delivery the Company may invoice the Customer for the full amount of the Price plus the cost of any packaging. Delivery of the Services shall be accepted when tendered.
- 4.5 Should expedited Delivery be agreed, the Company shall be entitled to make an extra charge to cover any overtime or any other additional costs.
- 4.6 Unless otherwise agreed in writing by the Company, the Company shall not be obliged to give possession of the Goods or to provide the Services (and the Customer shall not be entitled to receive them) unless and until payment in full in cleared funds of the Price has been received by the Company.
- 4.7 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 180 days.
- 4.8 Should Delivery of the Goods and/or Services be suspended or delayed by the Customer for any reason:

- 4.8.1 the Company shall be entitled to charge for storage and for all expenses incurred by the Company as a consequence of the failure to take Delivery, including loss of or wastage of resources that cannot otherwise be used; and
- 4.8.2 if the suspension or delay extends beyond 30 days the Company shall be entitled to immediate payment for any Services carried out, for any Goods that are ready for Delivery, and any other additional costs.
- 4.9 If for any reason the Customer fails to accept Delivery of any of the Goods and/or Services when they are ready for Delivery, or the Company is unable to deliver the Goods and/or Services on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
 - 4.9.1 risk in the Goods shall pass to the Customer (including for loss or damage caused by the Company's negligence);
 - 4.9.2 the Goods and/or Services shall be deemed to have been delivered; and
 - 4.9.3 the Company may store the Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.10 The Company may deliver the Goods and/or Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with these conditions.
- 4.11 Each instalment shall be a separate Contract subject to these conditions and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 4.12 The Services cannot be cancelled by the Customer without the Company's consent. Such consent will be agreed in writing and will include the payment to the Company of amounts necessary to cover the reasonable costs of the Company resulting from any cancellation.
- 4.13 Where the Customer requests the Company to deliver the Goods to any destination named by the Customer, the Customer's liability for the Goods will be as provided in Incoterms 2010 or any subsequent revision thereto.

5. Non-delivery

- 5.1 If it is agreed between the parties that Delivery is not to take place at the Company's place of business, the quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 5.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Customer gives written notice to the Company of the non-delivery within 10 days of the date when the Goods would in the ordinary course of events have been received.
- 5.3 Any liability of the Company for non-delivery of Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods, at the Company's discretion.

6. Risk/title

- 6.1 The following provisions of this clause 6 apply if and to the extent that risk in Goods has not passed to the Customer at the time of Delivery (whether or not possession has been given by the Company) pursuant to clause 4.
- 6.2 Except insofar as they are inconsistent with these terms and conditions, the provisions of Incoterms 2010 (or any subsequent revision thereto) shall apply to the Contract. In the event of any such inconsistency, the provisions of these terms and conditions shall prevail.
- 6.3 The Company shall not accept responsibility for loss or damage in transit unless:
- 6.3.1 in the case of sales where delivery of Goods is made in the United Kingdom the Company is notified by the Customer within 10 days of the invoice date of non-arrival of Goods and within 3 days of the invoice date of receipt of Goods damaged in transit; or
- 6.3.2 in all other cases the Customer notified the Company on the non-arrival or damage in transit within a reasonable period of time as determined by the Company.
- 6.4 Ownership of Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- 6.4.1 the Goods; and
- 6.4.2 all other sums which are or which become due to the Company from the Customer on any account.
- 6.5 Until ownership of Goods has passed to the Customer, the Customer shall:
- 6.5.1 hold the Goods as the Company's bailee;
- 6.5.2 store the Goods (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property (including where the Goods have been sold to a 3rd party);
- 6.5.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- 6.5.4 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. The Customer shall obtain an endorsement of the Company's interest in the goods on its insurance policy. On request the Customer shall allow the Company to inspect such Goods and shall produce the policy of insurance to the Company.
- 6.6 The Customer may resell the Goods before ownership has passed to it solely on the following conditions:
- 6.6.1 any sale shall be effected in the ordinary course of the Customer's business at full market value; and

- 6.6.2 the Customer must hold the proceeds of sale on trust for the Company in a separate account until any sum owing to the Company has been discharged from such proceeds.
- 6.7 The Customer's right to possession of the Goods shall terminate immediately if:
- 6.7.1 the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
- 6.7.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
- 6.7.3 the Customer encumbers or in any way charges any of the Goods.
- 6.8 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 6.9 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
- 6.10 Where the Company is unable to determine whether any Goods are the goods in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all goods of the kind sold by the Company to the Customer in the order in which they were invoiced to the Customer.
- 6.11 On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights contained in this condition 6 shall remain in effect.
- 6.12 For the avoidance of doubt, except where otherwise agreed by the Company in writing, the Company shall retain title to and ownership of all and any Goods manufactured or supplied, or agreed to be manufactured or supplied, by the Company for the Customer or at its direction, until all and any monies outstanding from the Customer to the Company have been received by the Company in full in cleared funds.

7. Patents

- 7.1 The Company gives no indemnity against any claim of infringement of Letters Patent, Registered Design, Trade Mark or Copyright by the use of or sale of any article or material supplied to the Customer. If its use is impossible without infringement of Letters Patent, Registered Design, Trade Mark or Copyright published at the date of the contract, the Company will refund to the Customer the purchase price of the said article or material provided that it is returned to the Company free of charge. The Customer warrants that any design or instruction furnished or given by the Customer shall not be such as will cause the Company to infringe any Letters Patent, Registered Design, Trade Mark or Copyright in the execution of the Customer's order.

8. Company's Obligations

- 8.1 The Company shall use reasonable endeavours to provide the Services to the Customer, in accordance in all material respects with the order acknowledgement.
- 8.2 The Company shall use reasonable endeavours to meet any performance dates specified in the order acknowledgement, but any such dates shall be estimates only and time shall not be of the essence of the Contract.
- 8.3 The Company shall use all reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises and that have been communicated to it under condition 9.1.5, provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.

9. Customer's Obligations

- 9.1 The Customer shall:
- 9.1.1 co-operate with the Company in all matters relating to the Services;
 - 9.1.2 provide, for the Company, its agents, sub-contractors and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as requested by the Company;
 - 9.1.3 provide, in a timely manner, such material and other information as the Company may request and ensure that it is accurate in all material respects;
 - 9.1.4 be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing the Company of all of its obligations and actions under this condition 9.1.4;
 - 9.1.5 be responsible (at its own cost) for preparing and maintaining the relevant premises in accordance with all and any instructions, guidance or information provided by the Company so that they are properly and suitably equipped and fitted out (for example, with appropriate electricity and water supplies) for Services to be performed and/or Goods to be delivered;

- 9.1.6 inform the Company of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises;
 - 9.1.7 ensure that all Customer's equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements;
 - 9.1.8 obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Company's equipment, the use of material and the use of the Customer's equipment in relation to the Company's equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment in all cases before the date on which the Services are to start; and
 - 9.1.9 keep and maintain the Company's equipment in good condition and shall not dispose of or use the Company's equipment other than in accordance with the Company's written instructions or authorisation.
- 9.2 If the Company's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, sub-contractors or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.
- 9.3 The Customer shall be liable to pay to the Company, on demand, all reasonable costs, charges or losses sustained or incurred by the Company (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Company confirming such costs, charges and losses to the Customer in writing.
- 9.4 The Customer shall not, without the prior written consent of the Company, at any time from the date of the Contract to the expiry of six months after the last date of supply of the Services, solicit or entice away from the company or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Company in the provision of the Services.
- 9.5 Any consent given by the Company in accordance with condition 9.4 shall be subject to the Customer paying to the Company a sum equivalent to 20% of the then current annual remuneration of the Company's employee or sub-contractor or, if higher, 20% of the annual remuneration to be paid by the Customer to that employee or sub-contractor.
- 9.6 Where a contract includes loading, off loading, assembly, installation, demonstration or servicing of machinery equipment or other goods on site, or where the Company assists in any of such matters at the request of with the consent (express or implied) of the Customer, the Customer shall be responsible for and shall indemnify the Company from and against all liabilities whether for damages, costs, expenses or otherwise under the law of England or the law of any other country or state arising out of the death or personal injury of any person or damage to any property howsoever caused PROVIDED that this indemnity shall not apply to liabilities arising solely from the negligence of the Company or its servants

10. Price

- 10.1 Unless otherwise agreed by the Company in writing, the price for the Goods or Services shall be the price set out in the Company's quotations and its order acknowledgement. The Company shall not be bound by any price quoted which is not in writing.
- 10.2 Unless otherwise agreed by the Company in writing, prices quoted are exclusive of VAT or other taxes, packing cases and materials, carriage and packing charges (save as provided for in condition 10.9) and are subject to increases as set out in condition 10.7.
- 10.3 Unless otherwise agreed by the Company in writing, installation of any machinery or equipment by the Company is not included in the price quoted.
- 10.4 Where any price or rate is not agreed in writing the price or rate will be such reasonable price or rate as the Company may determine.
- 10.5 Unless otherwise agreed by the Company in writing any price agreed in a Contract for the sale of Goods shall be the price of the Goods delivered to the Customer at the Company's premises and delivery of the Goods to any other place shall be at the expense of the Customer.
- 10.6 Where the Company considers it necessary and appropriate, one copy of the relevant operating manual is included in the price. Further copies may be issued without charge at the Company's discretion.
- 10.7 If after the date of the Contract but before delivery to the Customer there shall be an increase in (i) the price (exclusive of any applicable taxes) at which the Company can obtain goods, parts or materials which it considers necessary or desirable; or (ii) the cost to it of any labour or fuel or (iii) any cost charge or expense which it considers necessary or desirable to incur then the Company shall be entitled from time to time by notice in writing to the Customer to increase the price of any Goods or Services by such amount as it considers reasonable and such increased price shall be substituted for the previous Contract price.
- 10.8 The Customer has no right to cancel any order once accepted by the Company. However the Company may at its absolute discretion negotiate a cancellation charge to cover work completed and expenditure incurred up to the time the Customer wishes to cancel and may likewise agree to any cancellation.
- 10.9 Unless otherwise agreed in writing the Company shall be entitled to retain the Goods or any part thereof until all monies (whether liquidated or otherwise) due from the Customer on any account are paid in full and the Company may apply any money paid by the Customer (notwithstanding that the same is purported to be appropriated to any particular account) towards the settlement of any account whatsoever. Without prejudice to the generality of the foregoing, the Company's lien shall extend to goods supplied for repair on a free of charge basis for inclusion in the manufacture.

11. Payment

- 11.1 The Company shall be entitled to invoice the Customer for each order on or at any time after Delivery. Each invoice shall quote the relevant order numbers. Payment of the price for the Goods or Services is due in the currency and on the due date specified in the order acknowledgment, or where the same is not specified, in pounds sterling on or before the end of the calendar month following the calendar month in which such invoice is dated and (without prejudice to any other rights of the Company) interest will

be payable on all overdue accounts from the due date for payment at the annual rate of 4% above the base lending rate from time to time of HSBC Bank, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

11.2 Time for payment shall be of the essence.

11.3 No payment shall be deemed to have been received until the Company has received cleared funds.

11.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision. This condition is without prejudice to any right of the Company to claim for interest under the law or under these conditions.

11.5 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

11.6 The Customer shall be responsible for all legal and other costs and expenses which may be reasonably incurred by the Company in the recovery of any payment due to it from the Customer hereunder or in the recovery of possession of Goods delivered to the Customer and for which payment has not been made.

12. Warranty

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

12.2 Except where otherwise agreed by the Company in writing, the Company does not by either submitting a quotation or by entering into a Contract give any warranty or guarantee or representation or opinion as to the efficacy safety suitability or otherwise of the Goods or Services and the Company shall not be responsible in any way for any drawings designs or specifications except insofar as they are prepared by the Company and are not in accordance with instructions given to the Company and pursuant to which they were prepared.

12.3 In the case of contracts for the international sale of goods as defined in Section 61 of the Sale of Goods Act 1979 as amended and of contracts for Services all conditions and warranties and other terms express or implied, statutory or otherwise, are expressly excluded, save insofar as contained herein or as otherwise expressly agreed by the Company in writing PROVIDED that if any legislation or order makes it unlawful to exclude or purport to exclude any condition, warranty or other term from any such contract then the foregoing provisions in this paragraph shall not apply to any such term in any such contract.

13. Goods Returns

13.1 The Goods supplied to the Customer by the Company under the Contract shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Company.

- 13.2 In the event of Goods not being of satisfactory quality in accordance with clause 13.1 then this clause 13.2 shall apply: if the Customer fails to retain possession of Goods, or if no notice of rejection has been received by the Company within 3 months of Delivery, the Customer shall be deemed to have accepted such Goods.
- 13.3 The Customer must inspect all Goods upon delivery. Failure to do so will result in further charges being applied in the event of a return.
- 13.4 If on Delivery Goods are found to be faulty, defective or damaged the Customer must inform the Company in writing as soon as reasonably possible and in any event within 2 working days of it manifesting itself.
- 13.5 All returned Goods must be authorised by the Company and will be subject to such carriage, packaging and insurance charges as the Company may reasonably stipulate. All Goods returned to the Company must be returned in their original packaging and be unused. Where this is not the case further charges may be applied which will be at the Company's discretion.
- 13.6 The Company shall not be under any liability to repair or at its option replace or pay for the repair or replacement of any Goods which are found to be defective if:
- 13.6.1 the defect is caused or substantially caused or exacerbated by wear and tear, overloading, excessive use, misuse, neglect, modification or attempted modification carried out other than by the Company, or use of the Goods in connection with ancillary equipment not approved in writing by the Company, or default in proper maintenance or cleaning; or
 - 13.6.2 the Customer authorises or carries out any repair or replacement of any Goods without first affording the Company a reasonable opportunity of replacing or repairing them; or
 - 13.6.3 the Customer has been guilty of any breach of the terms of the Contract under which the Goods were supplied.
- 13.7 Where any Goods are not manufactured by the Company, the Company shall be liable for such defects to the extent only that the Company obtains redress from the manufacturer or supplier thereof PROVIDED that:
- 13.7.1 the Company shall not be obliged to take any step to attempt to obtain such redress except at the request and expense of the Customer and upon provision by the Customer of a full indemnity as to costs for which the Company may thereby become liable; and
 - 13.7.2 nothing in this condition 13.7 shall have effect as to impose upon the Company any additional liability or obligations other than those referred to in condition 13.1 hereof.

14. Limitation of Liability

- 14.1 Subject to condition 4, condition 5, condition 11 and condition 12, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 14.1.1 any breach of these conditions;

14.1.2 any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods, or any use made by the Customer of Services; and

14.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

14.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

14.3 Nothing in these conditions excludes or limits the liability of the Company:

14.3.1 for death or personal injury caused by the Company's negligence; or

14.3.2 under section 2(3), Consumer Protection Act 1987; or

14.3.3 for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

14.3.4 for fraud or fraudulent misrepresentation.

14.4 Subject to condition 14.2 and condition 14.3:

14.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall not exceed £50,000; and

14.4.2 the Company shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

15. Assignment

15.1 The Company may assign the Contract or any part of it to any person, firm or company.

15.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

16. Force Majeure

16.1 The Company (or any person acting on its behalf) shall not have any liability or responsibility for its failure to fulfil any obligation under the Contract so long as and to the extent to which the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event.

16.2 The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of Goods ordered by the Customer (without liability to the Customer) or delay the provision of Services if it is prevented from or delayed in the carrying on of its business due to a Force Majeure Event.

16.3 For the purposes of this condition, a Force Majeure Event shall mean an event beyond the reasonable control of the Company (or any person acting on its behalf), which by its nature could not reasonably have been foreseen by the Company (or such person acting on its behalf), or, if it could have been foreseen, was unavoidable, and includes, without limitation, acts of God, storms, floods, riots, fires, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), sabotage, civil commotion or civil unrest, interference by civil or military authorities, governmental actions, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources, or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 3 months, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

17. Termination

17.1 Except as provided in these terms and conditions or otherwise agreed by the Company in writing, the Company's obligations under the Contract shall be deemed discharged on Delivery of the Goods or the tendering of the Services in accordance with the order acknowledgement or otherwise as may be appropriate.

17.2 Without prejudice to any other rights or remedies which the Company may have, the Company may terminate the Contract without liability to the Customer immediately on giving notice to the Customer if:

17.2.1 the Customer fails to pay any undisputed amount due under these conditions on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or

17.2.2 the Customer commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified in writing of the breach; or

17.2.3 the Customer commits a series of persistent minor breaches which when taken together amount to a material breach of any of the terms of the Contract; or

17.2.4 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as and when they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or

17.2.5 a petition is filed, a notice is given, a resolution is passed, or an order is made for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the Customer; or

17.2.6 an order is made for the appointment of an administrator to manage the affairs, business and property of the Customer, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Customer, or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or

17.2.7 a receiver is appointed of any of the Customer's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to

appoint a receiver or manager of the Customer, or if any other person takes possession of or sells the Customer's assets; or

17.2.8 the Customer makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or

17.2.9 the Customer ceases, or threatens to cease, to trade; or

17.2.10 the Customer takes or suffers any similar or analogous action in any jurisdiction in consequence of debt; or

17.2.11 there is a change of control of the Customer (within the meaning of section 574 of the Capital Allowances Act 2001); or

17.2.12 any Force Majeure Event prevents the Customer from performing its obligations under these conditions for any continuous period of 3 months.

17.3 On termination of the Contract for any reason:

17.3.1 the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt;

17.3.2 the Customer shall, within a reasonable time, return all of the Company's equipment and materials. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and

17.3.3 the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

18. General

18.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

18.2 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

18.3 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

18.4 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

18.5 Any variation of these terms and conditions must be in writing and signed by a Director of the Company.

18.6 No single or partial exercise of any right or remedy under these terms and conditions shall prevent or restrict the further exercise of any other right or remedy.

19. Severance

- 19.1 If any of these terms and conditions (or any part of these terms and conditions) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other terms and conditions shall remain in force.
- 19.2 If any invalid, unenforceable or illegal term or condition would be valid, enforceable or legal if some part of it were deleted, the term or condition shall apply with the minimum modification necessary to make it legal, valid and enforceable.

20. Anti-Bribery Compliance

20.1 The Customer shall:

- 20.1.1 comply with all applicable laws, statutes, regulations, and codes of practice relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");
- 20.1.2 (if the Customer is not a UK resident) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 20.1.3 comply with the Company's Ethics and Anti-Bribery Policy as updated from time to time that is incorporated into these terms and conditions of business ("Relevant Policy");
- 20.1.4 have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policy, and, where applicable, condition 20.1.2 hereof, and will enforce them where appropriate;
- 20.1.5 promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Company in connection with the performance of this agreement;
- 20.1.6 immediately notify the Company in writing if a foreign public official becomes an officer or employee of the Customer or acquires a direct or indirect interest in the Customer, and the Customer warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement;
- 20.1.7 notify the Company in writing signed by an officer of the Customer in the event of any non-compliance with this condition 20 by the Customer and any persons associated with it;

- 20.2 For the purpose of this condition 20, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) and section 8 of that Act respectively. For the purpose of this condition 20, a person associated with the Customer includes but is not limited to any sub-contractor of the Customer.

21. Communications

21.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or sent by e-mail:

21.1.1 (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Customer by the Company; or

21.1.2 (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Customer.

21.2 Communications shall be deemed to have been received:

21.2.1 if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

21.2.2 if delivered by hand, on the day of delivery; or

21.2.3 if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day; or

21.2.4 if sent by e-mail, 24 hours after an e-mail is sent.

21.3 For the purpose of this condition:

21.3.1 all times are to be read as local time in the place of deemed receipt;

21.3.2 in proving the service of any notice, it will be sufficient to prove, in the case of a letter, that the letter was properly addressed, stamped and placed in the post, in the case of a fax, a fax transmission slip to the fax number of the receiving party, and, in the case of an e-mail, that the e-mail was sent to the specified e-mail address of the addressee; and

21.3.3 if deemed receipt under this condition is not within business hours (meaning 9:00am to 4:00pm Monday to Friday on any business day), the notice shall be deemed to have been received at the opening of business on the next business day in the place of receipt.

22. Governing Law and Jurisdiction

22.1 These conditions and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

22.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).