

**STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES**

**Your attention is particularly drawn to the exclusions and limitations of liability at Condition 9.**

1. **DEFINITIONS AND INTERPRETATION**

In these Conditions:

1.1 the following words and expressions have the following meanings and, in addition, any words and expressions defined in any Condition will have the same meaning when used in any other Condition:

<b>"Background Materials"</b>	all materials, equipment, documents and other property belonging to us
<b>"Business Day"</b>	a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales
<b>"Charges"</b>	the charges for the Services set out in our Order Acknowledgement
<b>"Intellectual Property Rights"</b>	all intellectual and industrial property rights of any kind whatsoever, including patents, rights in know-how, registered trade marks, registered designs, models, unregistered design rights, unregistered trade marks, rights to prevent passing off or unfair competition and copyright (whether in drawings, plans, specifications, designs and computer software or otherwise), database rights, topography rights any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing, in each case in the United Kingdom and all other countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions
<b>"Liability"</b>	liability arising out of or in connection with the Contract, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, including any liability arising from a breach of, or a failure to perform or defect or delay in performance of, any of a party's obligations under the Contract and/or any defect in any of the Goods, in each case howsoever caused including if caused by negligence
<b>"Order"</b>	your order for the supply of goods and services
<b>"Order Acknowledgement"</b>	our written acceptance of the Order
<b>"Prices"</b>	the prices for the Goods set out in our Order Acknowledgement
<b>"Specification"</b>	the written technical specification for the Goods set out in our Order Acknowledgement
<b>"you"</b>	the person named as the customer in the Order

1.2 all headings are for ease of reference only and will not affect the construction or interpretation of these Conditions;

1.3 references to a "person" include any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity (in each case whether or not having separate legal personality);

1.4 references to any statute or statutory provision will include any subordinate legislation made under it and will be construed as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time; and

1.5 any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them.

2. **CONTRACT FORMATION**

2.1 Any quotation given by us will be valid for a period of 30 days from and including its date, and will constitute an invitation to treat and not an offer.

2.2 The Order constitutes an offer by you to purchase the goods set out in the Order ("**Goods**") and the services set out in the Order ("**Services**") from us on these Conditions. A contract for the supply of Goods and Services by us to you on these Conditions will be formed when we accept the Order by issuing an Order Acknowledgement to you. For the avoidance of doubt, we are under no obligation to accept the Order.

2.3 These Conditions are the only terms and conditions on which we will supply goods and services to you and will apply to the exclusion of all other terms and conditions including any terms and conditions which you purport to apply under any purchase order, confirmation of order or similar document (whether or not such document is referred to in the Contract) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing.

2.4 Delivery of the Goods, or commencement of the performance of the Services, will be deemed conclusive evidence of your acceptance of these Conditions.

2.5 We will be entitled, at our discretion, to deliver Goods by separate instalments. We will be entitled to invoice the Price for each instalment separately in accordance with **Condition 6.6**. Each instalment will be deemed to be a separate contract and no cancellation or termination of any one contract relating to an instalment will give you the right to cancel or terminate any other contract.

3. **THE GOODS**

3.1 With the exception of the Specification, all samples, drawings, descriptive and illustrative matter and advertising issued or published by us (or the manufacturer of the Goods) whether in catalogues, brochures, websites, other promotional material or otherwise are for the sole purpose of giving an approximate idea of the relevant Good.

3.2 The Contract is not a sale by sample.

4. **DELIVERY**

4.1 Unless otherwise specified in the Order Acknowledgement, the Goods are to be collected by you on an ex works basis. You will collect the Goods from our premises as specified in the Order Acknowledgement and will load them onto the collecting vehicle during the hours of 9:00 am to 4:00 pm and within a period of 14 days from and including the day on which we inform you that the Goods are available for collection. Delivery of the Goods ("**Delivery**") will be deemed to occur at the time of collection (prior to loading) or, if earlier, on expiry of the period for collection specified in this **Condition 4.1**.

4.2 We will use reasonable endeavours to make available for collection Goods on the estimated Delivery date set out in the Order Acknowledgement, but time for Delivery of the Goods will not be of the essence of the Contract. Any Delivery dates given by us are estimates only.

4.3 If:

4.3.1 the Goods have not been made available for collection under **Condition 4.1** within twenty Business Days from and including the estimated delivery date set out in the Order Acknowledgement; and

4.3.2 we fail to make those Goods available for collection under **Condition 4.1** within ten Business Days of a written notice referring to this **Condition 4.3** and setting out your rights under it being given by you,

you will be entitled to cancel the Contract by giving written notice to that effect to us. If you exercise your right of cancellation we will refund to you any monies which you have already paid to us under the Contract and you will not be required to pay any further monies to us under the Contract. Subject to **Condition 9.6**, our sole Liability for our failure to deliver the Goods will be limited to the price (exclusive of value added tax) paid by you in obtaining replacement goods of equivalent description and quality in the cheapest market available, less the Price of the Goods.

4.4 Save as provided in **Condition 4.3**, you will not be entitled to cancel the Contract or to reject any Goods by reason of a delay in delivery or failure to deliver.

4.5 If Delivery occurs but you fail to collect the Goods we will be entitled to:

4.5.1 store or arrange for storage of the Goods until you collect them or they are disposed of under **Condition 4.5.2** (as applicable);

4.5.2 following written notice to you, treat the Contract as repudiated by you and dispose of the Goods in any way we see fit, including by sale to another person. If we sell any of the Goods under this **Condition 4.5.2** at a price which is less than the relevant Price, we will be entitled to charge you for the shortfall; and

4.5.3 charge you for all costs and expenses which we incur under **Conditions 4.5.1** and **4.5.2**.

5. **PASSING OF RISK AND RETENTION OF TITLE**

5.1 Risk of damage to or loss of the Goods will pass to you on Delivery.

5.2 Subject to **Conditions 5.3** and **5.4**, legal and beneficial ownership of the Goods will not pass to you until we have received in full in cleared funds:

5.2.1 all sums due to us in respect of the Goods; and

5.2.2 all other sums which are or which become due to us from you on any account whatsoever.

5.3 You may resell the Goods in the ordinary course of your business and, if you do so, legal and beneficial ownership of Goods will pass to you immediately prior to you entering into a binding contract for the sale of those Goods.

5.4 We may, by giving written notice to you, pass legal and beneficial ownership of the Goods (or any of them) to you at any time before such ownership would otherwise have passed to you.

5.5 Until ownership of the Goods has passed to you, you will:

5.5.1 hold the Goods on a fiduciary basis as our bailee;

5.5.2 store the Goods (at no cost to us) separately from all other goods in such a way that they remain readily identifiable as our property;

5.5.3 maintain the Goods in satisfactory condition; and

5.5.4 keep the Goods insured for their full price against damage or loss on an "all risks" basis, whenever requested by us produce a copy of the policy of insurance in respect of the Goods to us, do nothing and not omit to do anything which in consequence permits any insurer to refuse to indemnify you in full in accordance with the terms of any insurance policy maintained in respect of the Goods in respect of any claim made under any such insurance policy and ensure that any insurance proceeds received by you under the relevant policy are applied to repairing damaged Goods or, in the event that they are not so applied, hold such proceeds on trust for us.

5.6 You may use the Goods in the ordinary course of your business before ownership has passed to you.

5.7 Your right to possession, use and resale of the Goods will terminate immediately if, before ownership of the Goods passes to you in accordance with **Conditions 5.2, 5.3** or **5.4**:

5.7.1 you have a receiver, administrator or provisional liquidator appointed; are subject to a notice of intention to appoint an administrator; pass a resolution for your winding-up (save for the purpose of a solvent restructuring); have a winding up order made by a court in respect of you; enter into any composition or arrangement with creditors (other than relating to a solvent restructuring); or cease to carry on business;

5.7.2 you fail to pay any sum due to us on or before the due date or you are in breach of any of your obligations under the Contract;

5.7.3 the Contract terminates for any reason.

5.8 We will be entitled to recover payment for the Goods (including by way of an action for the price) notwithstanding that ownership of any of the Goods has not passed from us.

- 5.9 You grant, and will procure that the owner of any relevant third party premises grants, us, our agents, employees and sub-contractors 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 your right to possession, use and resale has terminated, to recover them.
- 5.10 If your right to possession, use and resale of the Goods terminates in accordance with **Condition 5.7**, we will be entitled to issue you with a credit note for all or any part of the price of the Goods together with value added tax thereon.
- 5.11 Our rights contained in this **Condition 5** will survive expiry or termination of the Contract however arising.
6. **PRICE AND PAYMENT**
- 6.1 You will pay the Prices and Charges to us in accordance with this **Condition 6**.
- 6.2 The Prices and Charges are exclusive of packaging and those reasonable travel, accommodation and subsistence expenses reasonably and properly incurred by us from time to time in performing the Services ("**Expenses**") which will be payable by you in addition to the Prices and Charges.
- 6.3 Any sum payable under the Contract is exclusive of value added tax (and any other similar or equivalent taxes, duties, fees and levies imposed from time to time by any government or other authority) which will be payable in addition to that sum in the manner and at the rate prescribed by law from time to time.
- 6.4 We will be entitled to vary the Prices and/or Charges at any time by giving written notice to you to reflect any variation in the cost of supplying the Goods and/or Services which arises as a consequence of any change in law, any variation in your requirements for the Goods and/or Services, any information provided by you being inaccurate or incomplete, or any failure or delay by you in providing information.
- 6.5 We will invoice you for the Prices for the Goods and any packaging costs payable by you in addition to the Prices and the Charges and any Expenses payable by you in addition to the Charges following us issuing the Order Acknowledgement.
- 6.6 We will invoice you for the Charges for the Services and any Expenses payable by you in addition to the Charges following performance of the Services.
- 6.7 Unless otherwise specified in the Order Acknowledgement each invoice will be payable by you within 30 days of the date of the invoice.
- 6.8 If any sum payable under the Contract is not paid on or before the due date for payment we will be entitled to charge you interest on that sum at the rate set out in the Late Payment of Commercial Debts (Interest) Act 1998 from the due date until the date of payment (whether before or after judgment), such interest to accrue on a daily basis.
- 6.9 If you fail to make any payment due to us under the Contract we will be entitled to withhold further deliveries of Goods and to suspend provision of the Services until that payment has been made.
- 6.10 Save as otherwise expressly provided in these Conditions or required by law, all payments to be made by you to us under the Contract will be made in full and without any set-off or any deduction or withholding including on account of any counter-claim.
- 6.11 Following expiry or termination of the Contract:
- 6.11.1 we will be entitled to invoice all Prices and Charges and any packaging, costs and Expenses incurred which have not yet been invoiced; and
- 6.11.2 all invoices (including any invoices issued under **Condition 6.11.1**) will become immediately due and payable by you.
7. **WARRANTY**
- 7.1 Unless otherwise specified in the Order Acknowledgement we warrant to you that during the period starting on Delivery and ending on the expiry of a period of 30 days from and including the date of Delivery (the "**Warranty Period**") the Goods will conform to the Specification in all material respects.
- 7.2 If, at any time during the Warranty Period, you become aware of a breach of the warranty at **Condition 7.1**, you will:
- 7.2.1 give written notice of the breach to us, such notice to be given within five Business Days of you becoming aware of the breach;
- 7.2.2 at our option either return to us (at our cost) the relevant Good or permit us or our agent or sub-contractor to inspect it at your premises; and
- 7.2.3 provide us with all information and assistance which we may require to investigate the alleged breach.
- 7.3 Subject to **Condition 9.6**, our only Liability for breach of the warranty at **Condition 7.1** will be, at our option, to repair or replace the relevant Good or to reduce the Price of the relevant Good by a sum which is equitable in the circumstances.
- 7.4 Your only remedy for breach of the obligation at **Condition 7.3** will be in damages.
- 7.5 Subject to **Condition 9.6**, we will not have any Liability for a breach of the warranty at **Condition 7.1** if:
- 7.5.1 you do not comply with your obligations at **Condition 7.2** in respect of the breach;
- 7.5.2 the relevant defect was caused by damage in transit after Delivery;
- 7.5.3 the relevant defect was caused by fair wear and tear;
- 7.5.4 the relevant defect was drawn to your attention before formation of the Contract or the Good was examined by you before formation of the Contract and the examination ought to have revealed the defect;
- 7.5.5 the relevant defect was caused or exacerbated by improper use, handling, alteration, installation, repair, maintenance, storage or failure to comply with instructions provided by us; or
- 7.5.6 you make further use of the relevant Good after discovering the relevant breach.
- The warranty under **Condition 7.1** will apply to any Goods which are repaired or replaced under **Condition 7.3** for the remainder of the original Warranty Period.
- 7.6 Subject to **Condition 9.6**, all warranties, conditions and other terms implied by law (whether by statute, common law or otherwise) are excluded from the Contract.
8. **SERVICES**
- 8.1 We warrant to you that we will provide the Services with reasonable care and skill.

- 8.2 We will use reasonable endeavours to provide the Services on the estimated performance date set out in the Order Acknowledgement, but time for provision of the Services will not be of the essence of the Contract. Any performance dates given by us are estimates only. If we have not provided the Services within twenty Business Days of the estimated performance date set out in the Order Acknowledgement you will be entitled to cancel the Contract by giving written notice to that effect to us. If you exercise your right of cancellation we will refund to you any monies which you have already paid to us under the Contract and you will not be required to pay any further monies to us under the Contract. Subject to **Condition 9.6**, our sole Liability for our failure to perform the Services will be limited to the fees (exclusive of value added tax) paid by you in obtaining replacement services of equivalent description and quality in the cheapest market available, less the Charges for the Services.
- 8.3 Save as provided in **Condition 8.2**, you will not be entitled to cancel the Contract by reason of a delay in performance of the Services.
- 8.4 We shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and we shall notify you in any such event.
9. **EXCLUSIONS AND LIMITATIONS OF LIABILITY**  
**Your attention is particularly drawn to this Condition.**
- 9.1 Subject to **Condition 9.6**, our entire Liability for any non-delivery of Goods or failure to deliver the Goods in accordance with the timescales set out or referred to in the Contract will be as set out in **Condition 4.3** and we will have no other Liability for any such non-delivery or failure to deliver.
- 9.2 Subject to **Conditions 9.4, 9.5 and 9.6**, our maximum aggregate Liability in respect of the provision of the Services will be limited to the Charges paid for such Services pursuant to the Contract.
- 9.3 Subject to **Condition 9.6**, our only Liability for breach of the warranty at **Condition 7.1** will be, at our option, to repair or replace the relevant Good or to reduce the Price of the relevant Good by a sum which is equitable in the circumstances.
- 9.4 We will have no Liability to you for any:
- 9.4.1 loss of profit (whether direct, indirect or consequential);
  - 9.4.2 loss of revenue, loss of production or loss of business (in each case whether direct, indirect or consequential);
  - 9.4.3 loss of goodwill, loss of reputation or loss of opportunity (in each case whether direct, indirect or consequential);
  - 9.4.4 loss of anticipated savings or loss of margin (in each case whether direct, indirect or consequential);
  - 9.4.5 liability that you have to third parties (whether direct, indirect or consequential); or
  - 9.4.6 indirect, consequential or special loss,
- subject always to **Condition 9.6**.
- 9.5 We will not be in breach of the Contract or otherwise liable to you for any failure to perform or delay in performing our obligations under the Contract to the extent that such failure or delay is due to any event or circumstance beyond our reasonable control.
- 9.6 Nothing in the Contract will operate to exclude or restrict one party's Liability (if any) to the other:
- 9.6.1 for death or personal injury resulting from its negligence;
  - 9.6.2 for its fraud or fraudulent misrepresentation;
  - 9.6.3 for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its liability.
- 9.7 Nothing in this **Condition 9** will prevent or restrict the right of a party to seek injunctive relief or specific performance or other discretionary remedies of the court.
10. **YOUR OBLIGATIONS**
- 10.1 You will provide us with all such information and assistance as we may require from time to time to perform our obligations under the Contract.
- 10.2 Notwithstanding any other term of the Contract we will not be in breach of the Contract to the extent our failure to perform or delay or defect in performance of its obligations under the Contract arises as a result of:
- 10.2.1 any breach by you of your obligations contained in the Contract;
  - 10.2.2 us relying on any incomplete or inaccurate data provided by a third party; or
  - 10.2.3 us complying with any instruction or request by you or one of your employees.
11. **TERMINATION**
- 11.1 If you commit a breach of the Contract we may terminate the Contract immediately by giving written notice to that effect to you.
- 11.2 We may terminate the Contract immediately by giving written notice to that effect to you if any of the events or circumstances set out in **Condition 5.7.1** occur. You will notify us immediately upon the occurrence of any such event or circumstance.
- 11.3 If an event or circumstance which gives rise to relief from liability under **Condition 9.5** continues for a period of more than 10 Business Days, either party will be entitled to terminate the Contract immediately by giving written notice to that effect to the other party.
- 11.4 Following expiry or termination of the Contract:
- 11.4.1 any Conditions which expressly or impliedly continue to have effect after expiry or termination of the Contract will continue in force; and
  - 11.4.2 all other rights and obligations will immediately cease without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to the date of expiry or termination.
12. **CONFIDENTIALITY**
- 12.1 **Confidential Information** means any information (whether written, oral, in electronic form or in any other media) that:

- 12.1.1 is disclosed by or on behalf of us (the "**Discloser**") to you (the "**Recipient**") in connection with the Contract and that relates (in whole or in part) to us, or our business; and/or
  - 12.1.2 relates to the existence or terms of the Contract,
- but excluding any information that falls within the exclusions set out in **Condition 12.4**.
- 12.2 The Recipient will:
    - 12.2.1 keep the Confidential Information secret, safe and secure and will only disclose it in the manner and to the extent expressly permitted by the Contract; and
    - 12.2.2 use the Confidential Information only to the extent necessary for the performance of its obligations under the Contract.
  - 12.3 The Recipient may disclose Confidential Information:
    - 12.3.1 to such of its officers and employees and, in our case, agents and sub-contractors, who need access to that Confidential Information for the purpose of complying with its obligations under the Contract;
    - 12.3.2 to the extent required by applicable law, regulatory authority or a court of competent jurisdiction.
  - 12.4 The Recipient's obligations under this **Condition 12** will not extend to Confidential Information which the Recipient can prove:
    - 12.4.1 has ceased to be secret without default on the Recipient's part;
    - 12.4.2 was already in the Recipient's possession prior to disclosure by or on behalf of the Discloser;
    - 12.4.3 has been received from a third party who did not acquire it in confidence and who is free to make it available to the Recipient without limitation;
    - 12.4.4 was independently developed by the Recipient without any breach of the Contract; or
    - 12.4.5 at the time of disclosure was in the public domain or subsequently enters into the public domain without default of the Recipient.

### 13. **INTELLECTUAL PROPERTY RIGHTS**

- 13.1 Any Background Materials are our exclusive property.
- 13.2 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by us however we shall grant you a non-exclusive, revocable licence to use the Intellectual Property Rights for the purpose for which they were created.
- 13.3 You acknowledge that, in respect of any third party Intellectual Property Rights in the Services, any use by you of such Intellectual Property Rights is conditional on us obtaining a written licence from the relevant licensor on such terms as will entitle us to license rights to you.

### 14. **NOTICE**

- 14.1 Any notice or other communication given under or in connection with the Contract will be in writing, in the English language, and:
  - 14.1.1 sent by pre-paid first class post to the relevant party's address; or
  - 14.1.2 delivered to or left at (but not, in either case, by post) the relevant party's address, and, in the case of any notice or other communication to be given to us, marked for the attention of our specified representative. Our address and representative are set out below and your address are those detailed in the Order, and may be changed by the relevant party giving at least five Business Days in accordance with this **Condition 14**.

Address: Unit 18, Laverock Road, Stirling Road Industrial Estate, Airdrie, North Lanarkshire, ML6 7UD

For the attention of: Graham Davy

- 14.2 Any notice or communication given in accordance with **Condition 14.1** will be deemed to have been served:
  - 14.2.1 if given as set out in **Condition 14.1.1**, at 9.00 a.m. on the second Business Day after the date of posting; and
  - 14.2.2 if given as set out in **Condition 14.1.2**, at the time the notice or communication is delivered to or left at that party's address;provided that if a notice or communication is deemed to be served before 9.00 am on a Business Day it will be deemed to be served at 9.00 am on that Business Day and if it is deemed to be served on a day which is not a Business Day or after 5.00 pm on a Business Day it will be deemed to be served at 9.00 am on the immediately following Business Day.
- 14.3 To prove service of a notice or communication it will be sufficient to prove that the provisions of **Condition 14.1** were complied with.

15. **GENERAL**
- 15.1 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and:
- 15.1.1 neither party has entered into the Contract in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person) which is not expressly set out in the Contract; and
- 15.1.2 nothing in this **Condition 15.1** will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.
- 15.2 A delay in exercising or failure to exercise a right or remedy under or in connection with the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.
- 15.3 If any term of the Contract (including any exclusion from, or limitation of, liability set out in **Condition 9**) is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Contract and this will not affect the remainder of the Contract which will continue in full force and effect.
- 15.4 No variation to the Contract will be effective unless it is in writing and signed by a duly authorised representative on behalf of each of the parties.
- 15.5 Nothing in the Contract and no action taken by the parties in connection with it or them will create a partnership or joint venture or relationship of employer and employee between the parties or give either party authority to act as the agent of or in the name of or on behalf of the other party or to bind the other party or to hold itself out as being entitled to do so.
- 15.6 Each party agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.
- 15.7 The parties do not intend that any term of the Contract will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.
- 15.8 Our rights and remedies set out in these Conditions are in addition to and not exclusive of any rights and remedies provided by law.
- 15.9 You will not be entitled to assign, transfer, charge, hold on trust for any person or deal in any other manner with any of your rights under the Contract.
16. **GOVERNING LAW AND JURISDICTION**
- 16.1 The Contract and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales.
- 16.2 Each party agrees that the courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with the Contract (including in relation to any non-contractual obligations).