

TERMS AND CONDITIONS OF SUPPLY AND SALE AND/OR LEASE

In these terms and conditions (“**Conditions**”) the following words and expressions shall have the following meanings:

Products: any item of whatsoever nature or part thereof or service which is to be sold, leased or supplied by the Supplier including any labelling and packaging as described in the order;

Customer: the person named in the order who buys or leases or has agreed to buy or lease the Products; and

Supplier: Hofy Ltd registered in England and Wales under company number 12507645

1 **Order and Acceptance**

- 1.1 An order constitutes an offer by the Customer to purchase or lease the Products in accordance with these Conditions. A quotation given by the Supplier shall not constitute an offer.
- 1.2 All orders placed by the Customer shall be in writing specifying the names of Products, the quantity required and the delivery address or addresses.
- 1.3 The preferred delivery date and time for all orders placed by the Customer must be agreed with the Supplier in writing. Where there is more than one delivery address in relation to delivery of the Products, there may be a separate delivery date for each delivery address.
- 1.4 The Supplier contracts for the sale or lease of the Products subject to these Conditions only and any other terms and conditions (including but not limited to those in the Customer’s order or enquiries) inconsistent with these Conditions shall be of no effect.
- 1.5 Any modification to these Conditions will be binding only if it is evidenced in writing signed by the Supplier and the Customer.
- 1.6 If the Supplier does agree to the Customer cancelling a contract or order (other than as a result of the Supplier’s breach or negligence) it shall be a condition of that consent that the Customer will reimburse the Supplier in respect of all losses and expenses suffered by the Supplier arising out of or in connection with such cancellation.
- 1.7 The Supplier shall be entitled in its absolute discretion to accept or reject any order received from the Customer and from time to time to extend or discontinue the range of Products or any part of it prior to the acceptance of any order, provided that the Supplier shall promptly notify the Customer of any such acceptance, rejection, extension or discontinuance.

2 **Estimates and Prices**

- 2.1 Unless otherwise stated in writing, the prices estimated or quoted by the Supplier are exclusive of delivery, freight and insurance charges, VAT and other applicable taxes, duties or levies of any kind whatsoever, all of which are payable by the Customer in addition to the price.
- 2.2 Prices are based on, amongst other things, the cost of materials, labour, transport, import duties and levies, currency exchange rates and statutory obligations at the date of the Supplier’s acceptance of the Customer’s order and if, before delivery, there occurs any increase, for any reason beyond the control of the Supplier, in the cost to the Supplier of supplying the Products, (including (without limitation) a change to any of the above matters) or in the event that the Supplier agrees to the Customer modifying the terms of any contract to which these Conditions apply, the Supplier shall be entitled to adjust the price of the Products by a reasonable amount to take account of any resultant increases in the cost of manufacturing or supplying the Products.

2.3 The Customer shall not be entitled to make any deduction from any payment due to the Supplier in respect of any set-off or counter claim, unless the validity and the amount of such deductions have been expressly admitted in writing by the Supplier.

2.4 The price to be paid by the Customer for the Products may be adjusted by the Supplier in its absolute discretion (which discretion shall not be subject to review) at any time prior to the acceptance of the Customer's order upon notice being given by the Supplier to the Customer.

3 Payment

3.1 The time of payment shall be of the essence of any contract to which these Conditions apply. Unless otherwise expressly stated, payment shall be due on or before the 7th day after the date of invoice. Such payments shall be made by the Customer in sterling by bank transfer to such bank account as the Supplier may from time to time notify in writing to the Customer.

3.2 Without prejudice to any other rights the Supplier may have, failure to pay the price or part of it or other monies payable by the Customer pursuant to these Conditions shall entitle the Supplier, at the Supplier's sole discretion, to charge in addition to any monies due under these conditions interest on the outstanding amount at the rate per annum of 4 per cent above the base rate from time to time of the Supplier's bankers calculated on a daily basis from the date the payment became due until the date payment is made.

3.3 The Supplier may at its discretion require full or partial payment of the price prior to delivery of the Products or the provision of security for payment by the Customer in a form acceptable to the Supplier.

4 Delivery

4.1 Delivery shall take place on despatch of the Products to the Customer from the Supplier's premises for delivery to the Customer's premises set out in these Conditions, unless otherwise agreed in writing by the Supplier. The Products may be delivered by the Supplier in advance of the quoted delivery date.

4.2 The Customer acknowledges and agrees that if it requests that the Supplier change the delivery date, delivery address or delivery time previously agreed between the Customer and the Supplier in respect of any Product, this may affect the overall delivery time for all Products specified in the Customer's order. The Supplier hereby agrees to inform the Customer in the event that the overall delivery time for the Products is so affected.

4.3 Although dates for delivery are given in good faith, these are indicative only and time of delivery shall not be of the essence. The Supplier shall use reasonable efforts to deliver orders as soon as reasonably practicable and to inform the Customer if there may be any delays in delivery of the Products. If the Supplier is unable to deliver any Product by the agreed delivery date the Supplier shall not be liable to the Customer for any delay caused as a result of the failure to deliver.

4.4 If the Supplier fails to deliver the Products within 10 working days of the agreed delivery date, the Customer shall have the right to receive a refund of monies paid to the Supplier only in respect of those Products which the Supplier has failed to deliver within 10 working days of the agreed delivery date.

4.5 The Customer shall accept delivery of the Products at the agreed time and point of delivery in accordance with these Conditions and the Customer shall reimburse the Supplier for any costs or expenses (including, without limitation, any re-delivery and storage costs) incurred by the Supplier as a result of the Customer failing to accept delivery or failing to provide the Supplier with such instructions and/or documentation as it shall require in order to effect delivery of the Products.

4.6 If, despite the Supplier's reasonable efforts, it is unable to deliver the Products to any delivery address specified by the Customer in the Customer's order and is unable to contact the

Customer to re-arrange delivery of the Products to the delivery address within 10 working days of the original delivery date, the Supplier will no longer be obliged to deliver such Products and will refund to the Customer the amount charged in respect of those Products less any cost incurred by the Supplier in connection with their delivery, installation and assembly.

- 4.7 The Customer agrees to inspect the Products upon delivery and inform the Supplier promptly in writing of any Products which are delivered in a damaged or defective state or of any shortfall in any delivery. Any shortfall in the quantity of Products delivered from that stated in any contract to which these Conditions apply shall not give rise to a right to claim damages for breach of contract solely as a result of such shortfall but the Customer shall only be obliged to pay at the contract rate for the quantity of the Products delivered.
- 4.8 Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Supplier to deliver any one of the instalments in accordance with the contract governing any order or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat any other contract with the Supplier as repudiated.
- 4.9 All Products supplied by the Supplier shall be at the Customer's risk immediately following delivery of the Products to the Customer in accordance with condition 4.1. The Customer shall maintain appropriate insurance for delivered Products against all usual risks and shall procure that the Supplier's interest is noted on any relevant policy.
- 4.10 The Customer shall ensure that the Products ordered are of a suitable size for their intended use and the Supplier does not except responsibility where this is not the case. In the event that there is insufficient space available to install the Products at the delivery address specified by the Customer in the order, the Customer may return such Product to the Supplier at the Customer's own cost.
- 4.11 In the event that the Customer returns the Products to the Supplier in accordance with condition 4.10, the Supplier shall refund the Customer 75% of the amount charged to the Customer for the Products excluding the cost of delivery, installation and assembly including in the amount charged.
- 4.12 The Customer shall ensure that the Supplier has free and unobstructed access to the delivery addresses in order to deliver and install the Products including parking space for delivery vehicles. If applicable, the Customer shall ensure that parking permits are obtained in advance of delivery. The Supplier reserves the right to recover from the Customer the costs of any parking incurred by it in connection with the delivery, installation and assembly of the Products.

5 **Collection**

- 5.1 Where the Supplier has leased the Products to the Customer, the Supplier agrees to recover and recycle at the Supplier's own cost Products supplied by it to the Customer where the Customer no longer requires such Products subject to conditions 5.3 and 5.4 below.
- 5.2 Where the Supplier has sold the Products to the Customer, the Supplier agrees to recover and recycle at the Customer's cost Products supplied by the Supplier to the Customer where the Customer no longer requires such Products subject to conditions 5.3 and 5.4 below.
- 5.3 The Customer shall ensure that all Products are emptied of personal belongings before they are collected and the Supplier shall not be liable for any loss or damage in respect any personal belongings as a result of the Customer's failure to do so.
- 5.4 The Customer shall provide the Supplier with reasonable access to the Products in order to effect their recovery in accordance with this condition 5.

6 **Transfer of Property**

- 6.1 This condition 6 shall apply only to the sale of the Products by the Supplier to the Customer. It shall not apply to the lease of the Products by the Supplier to the Customer.
- 6.2 All Products supplied to the Customer or at the Customer's direction shall remain the sole and absolute property of the Supplier, notwithstanding delivery, installation and assembly, until:
- 6.2.1 payment in full for all the Products has been received in cash or cleared funds by the Supplier; and
- 6.2.2 all accounts due from the Customer to the Supplier have been paid in full,
- and until such time the Customer shall hold the Products to the order of the Supplier.
- 6.3 Until such time as the Supplier has been paid in full pursuant to condition 6.2, the Customer shall ensure that all Products are stored separately and in such a way as to be readily identifiable as the property of the Supplier and easily removable by the Supplier. The Customer shall ensure that the Products are properly maintained in the condition in which they were delivered and shall make good any damage or deterioration.
- 6.4 In the event of non-payment (in whole or in part) by the Customer by the due date the Supplier shall be entitled in addition to all other rights during normal business hours to enter upon any land or premises where the Products may for the time being be and recover possession of them. The Supplier may take such measures as may be reasonably necessary to enter such land or premises and remove the Products.
- 6.5 Even if property in the Products may not have passed to the Customer, the Supplier may maintain an action for the price of the Products once payment has become due to the Supplier, provided that property shall pass to the Customer once full payment pursuant to condition 6.2 has been made to the Supplier.

7 **Products subject to lease**

- 7.1 This condition 7 shall apply only to the lease of the Products by the Supplier to the Customer. It shall not apply to the sale of the Products by the Supplier to the Customer.
- 7.2 All Products leased to the Customer or at the Customer's direction shall remain the sole and absolute property of the Supplier.
- 7.3 The Products shall be leased to the Customer by the Supplier for such term as agreed between the parties in writing. The Customer may request a renewal of the lease upon notifying the Supplier at least 30 days prior to the start date of the proposed renewal date unless the Supplier consents to a shorter notice period.
- 7.4 If the Customer does not wish to renew the lease, the Supplier will contact the Customer in writing 30 days prior to the end of the current lease term to arrange collection of the Products at the Supplier's cost (subject to condition 7.5). If the Supplier is unable to confirm collection for any Product within 7 days prior to the end of the term of the lease, the Supplier shall have the right to charge the Customer an amount equal to one month's rent for such Product as specified in the order.
- 7.5 If the collection address is different from the delivery address specified by the Customer in the order, the Supplier reserves the right to charge the Customer for any additional costs associated with the collection of the Products from the collection address.
- 7.6 The Customer agrees that the Customer or its representative shall be present at the time of any collection of the Products in accordance with condition 7.4 in order to sign the Supplier's collection note and confirm that the Products being collected are in the same condition as they were when initially supplied by the Supplier to the Customer subject to reasonable wear and tear.

- 7.7 If the Customer does not adhere to condition 7.6, it will not be permitted to contest any assessment by the Supplier as to the condition of the Products being collected in accordance with condition 7.4.
- 7.8 The Customer acknowledges and agrees that the Supplier will only lease Products to the Customer for the duration of the warranty period given by the manufacturer of such Products, such warranty period to be specified by the Supplier to the Seller at the time of the order. At the end of the manufacturer's warranty period the Supplier will arrange for the recovery of the Products from the Customer unless otherwise agreed in writing by the Supplier.
- 7.9 The Customer acknowledges and agrees that the Supplier shall check the Products for any damage at the time of collection of such Products. The Customer further acknowledges and agrees that the Seller shall have the right to charge the Customer for costs associated with the repair of any damage that is reasonably considered by the Supplier to be beyond reasonable wear and tear or, where such damage is not capable of being repaired or where the cost of doing so exceeds the cost of replacing the Product, the Customer agrees that the Supplier has the right to charge the Customer for the cost of replacing the Product.
- 7.10 The Customer acknowledges and agrees that it is the responsibility of the Customer to inform the Supplier immediately of any damage to Products which are leased to it. If the Customer discovers any damage to a Product, it will cease to use such Product immediately.
- 7.11 Having been informed by the Customer of any damage to a Product, the Supplier will assess whether it believes there is a risk that, as a result of such damage, the Product is no longer fit for purpose. If the Supplier so believes, the Customer will (or will procure that the relevant user of the Product will) ensure that it does not use the Product until repaired or replaced by the Supplier in accordance with condition 8.

8 Premium Repair and Replacement Service

- 8.1 This condition 8 shall apply to the lease of the Products by the Supplier to the Customer. It shall not apply to the sale of the Products by the Supplier to the Customer unless otherwise agreed in writing by the parties and subject to payment by the Customer to the Supplier of any additional amount which the Supplier may specify.
- 8.2 The Supplier shall provide to the Customer the Premium Repair and Replacement Service. For the purposes of this condition 8, Premium Repair and Replacement Service means:
- 8.2.1 The Customer may make a written report to the Supplier of any fault with the Products.
- 8.2.2 Within 3 working days of its receipt of such report and provided the Supplier is given access to the relevant address within standard business hours, the Supplier or its representative shall attend the address where the Products are held in order to inspect the Products.
- 8.2.3 Having inspected the Products, the Supplier shall determine the reason for the fault.
- 8.2.4 Subject to condition 8.2.5 below, the Supplier shall repair or replace the Products in accordance with conditions 8.2.6 and 8.2.7 below at the Supplier's cost.
- 8.2.5 Condition 8.2.4 shall not apply where the Supplier determines (at its sole discretion) that the reason for the fault is failure by any user of the Product to act in accordance with the manufacturer's instructions or where the fault is due to accidental or deliberate damage by any person.
- 8.2.6 Within 3 working days of receipt of the reported specified at condition 8.2.1, the Supplier shall repair the Products at the location where such Products are held if the Supplier reasonably deems such on-site repair to be possible and shall provide the Customer with a report of any such on-site repair. Otherwise, the

Supplier shall collect the Products and shall repair them offsite and will re-deliver such Products to the address from which they were collected within 3 business days of such collection.

8.2.7 As an alternative to repair, the Supplier may replace the Products with products which are determined by the Supplier (at its sole discretion) to be the same as or similar to the Products originally supplied by it to the Customer.

8.2.8 The Supplier's right to replace the Products in accordance with condition 8.2.7 shall apply where the Supplier is unable to repair the Products or where the cost to the Supplier of replacing the Products is less than the cost to the Supplier of repairing the Products.

8.2.9 Where the Products are held at a different address to the delivery address specified by the Customer in the order, the Supplier reserves the right to charge the Customer for any additional costs associated with:

8.2.9.1 the inspection of the Products at the address;

8.2.9.2 the collection of Products from the address; and

8.2.9.3 the delivery of replacement Products or repaired Products to the address.

8.2.10 Where condition 8.2.5 applies, the Supplier shall notify the Customer of such fact in writing and the Customer shall be responsible for the cost to the Supplier of attending the address where the Products are located for the purpose of its inspection. Having received a notification under this condition 8.2.10, if the Customer wishes the Supplier to repair or replace the Products, the Customer shall notify the Supplier and the Supplier carry out such repair or replacement but at the Customer's cost.

8.3 The Premium Repair and Replacement Service shall not be available to the Customer for any period beyond the duration of the warranty period given by the manufacturer of the Products, as specified by the Supplier to the Customer at the time of its order.

9 Intellectual Property Rights

9.1 The Customer shall leave in position and not cover, deface or erase any notices or other marks (including, without limitation, serial numbers and notices that a trade mark, design, patent or copyright relating to the Products is owned by the Supplier or a third party) which the Supplier may place on or affix to the Products.

9.2 Except where the Customer receives the Supplier's written consent, the Customer shall not use any trade mark of the Supplier on its note paper or in any other way other than in relation to the Products in respect of which the Supplier has used such trade mark. In particular, but without limitation, the Customer shall not in any of its stationery nor by any sign at its premises or otherwise indicate that it is in any way connected with the Supplier other than (if such be the case) that it is an authorised distributor of the Products.

9.3 The Customer acknowledges that all intellectual property rights in the Products do and shall continue to belong to the Supplier and the Customer agrees that it will not infringe any of the Supplier's intellectual property rights. In addition, the Customer agrees to notify the Supplier as soon as it becomes aware of any third party infringement of the Supplier's intellectual property rights.

10 Warranties

10.1 The Supplier warrants to the Customer that all Products delivered to the Customer:

- 10.1.1 will be fit for the purpose notified to the Supplier as the purpose for which they will be used;
 - 10.1.2 will correspond in all material respects with the specification under which they were sold.
- 10.2 The Supplier shall not be liable for a breach of any of the warranties in this condition 7 unless:
- 10.2.1 the Customer gives written notice of the defect to the Supplier, and, if the defect is as a result of damage in transit to the carrier, within 2 working days of the time when the Customer discovers or ought to have discovered the defect; and
 - 10.2.2 the Supplier is given a reasonable opportunity after receiving the notice of examining such Products.
- 10.3 The Supplier shall not be liable for a breach of any of the warranties in this condition 10 if:
- 10.3.1 the Customer makes any further use of such Products (or any one Product) after giving such notice;
 - 10.3.2 having identified a defect or where the Customer reasonably suspects the existence of a defect in relation to any Products (or any one Product), the Customer makes any further use of such Product(s) prior to expiry of the period for giving notice of such defect in accordance with condition 10.2; or
 - 10.3.3 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, assembly, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice; or
 - 10.3.4 the Customer alters or repairs such Products without the written consent of the Supplier.
- 10.4 All samples, illustrations, colours, drawings and diagrams in the Supplier's catalogues, trade literature and other published matter are of a generally informative nature and approximate only and are subject to change without notice and none of these shall form part of any contract or give rise to any independent or collateral liability of whatsoever nature on the part of the Supplier.
- 11 Limitation of Liability**
- 11.1 Subject to the provisions of condition 11.3, the liability of the Supplier in respect of any breach of the warranties given in condition 10, or any defect in or failure of any Products supplied, or any shortage in quantity of Products, or for any loss, injury or damage attributable directly or indirectly thereto shall be limited to (at the Supplier's option):
- 11.1.1 repairing defects or failures in the Products or making good the Products by replacement and delivering the repaired or replacement Products to the Customer (at the Supplier's expense), provided that the Supplier shall not be liable for the cost of any work or labour involved in fitting or refitting the Products or any part thereof; or
 - 11.1.2 refunding any sums paid to the Supplier by the Customer for the Products,
- provided that the Supplier is reasonably satisfied that such defects or failure arose solely from the faulty design of the Products, defective materials or workmanship and that the Supplier shall not be liable in respect of defects to, or failure of, the Products caused by misuse or neglect of the Customer, accident or wear and tear.
- 11.2 If a Product fails, is defective or does not comply with the warranties or if there is any shortfall in delivery:

- 11.2.1 the Customer shall notify the Supplier immediately in writing on discovery and in any case within 2 days of receipt of the relevant Products, setting out details of the problem, the Products affected and the order number and shall take any measures which the Supplier reasonably requests to prevent further problems or to minimise the damage; and
 - 11.2.2 the Customer shall (if the Supplier so requests) return the Products to the Supplier or its nominated representative (and the Supplier shall pay the reasonable costs of the return transport provided that it has been given prior notice of, and agreed to, such costs, such agreement not to be unreasonably withheld or delayed).
- 11.3 The Customer agrees that the Supplier shall not be liable:
- 11.3.1 for the cost of substitute goods;
 - 11.3.2 for any indirect or consequential loss (other than any provided for in condition 11.1);
 - 11.3.3 for any loss of production;
 - 11.3.4 for any loss of profit or goodwill suffered or incurred by the Customer or any third parties;
 - 11.3.5 for any costs, claims, expenses, loss or damage in excess of the 50 per cent contract price for the Products or part thereof in respect of which a claim is made;
 - 11.3.6 for any claim relating to a Product, unless such claim is made within 12 months from delivery of such Product;
 - 11.3.7 in respect of any alterations made to the Products other than those made by the Supplier or its subcontractors;
 - 11.3.8 where the Products have been combined with, or incorporated into, other products;
 - 11.3.9 where the Products are the subject of a lease between the Supplier and the Customer, any costs, claims expenses, loss or damage whatsoever where any of the Products are used beyond the warranty period specified by the Supplier to the Customer at the time of the order;
 - 11.3.10 for any loss or damage arising from the Customer's design error or the Customer choosing the wrong or unsuitable Product for its purposes, save where the loss or damage arises solely out of the Supplier's negligence.
- 11.4 Except as otherwise provided in these Conditions, all representations, guarantees, undertakings, conditions or warranties, express or implied, in tort or contract, statutory or otherwise in relation to the Products are hereby expressly excluded to the extent so permitted by law.
- 11.5 For the avoidance of doubt, nothing in these Conditions shall exclude or restrict the Supplier's liability:
- 11.5.1 for any fraudulent misrepresentation made to the Customer on which the Customer relied in entering into any contract made under these Conditions; or
 - 11.5.2 in relation to any statutory implied conditions as to title in the Products; or
 - 11.5.3 to any person for death or personal injury to that person resulting from the Supplier's negligence; or

- 11.5.4 under the Consumer Protection Act 1987 (or any replacement or re-enactment of that Act) to a person who has suffered damage (as defined in that Act) caused wholly or partly by a defect in a Product or to a dependant or relative of such a person.
- 11.6 The Customer acknowledges that:
- 11.6.1 the price of the Products is based on the limitations of liability set out in this condition 11 and the entire agreement statement in condition 17;
- 11.6.2 it is neither reasonable nor practicable for the Supplier to be expected to be aware of any potential consequential losses which might arise from the supply of the Products to the Customer or of all the end-uses to which the Products will be put;
- 11.6.3 the Supplier is unable to obtain insurance providing unlimited cover for its full potential liability to its clients and such insurance as is available to the Supplier is more expensive than insurance cover available to the Customer to cover loss or damage to the Customer, which insurance cover the Customer should or ought reasonably to maintain in any event; and
- 11.6.4 the Supplier would not enter into transactions of this nature without such a limitation and that in the light of the provisions of this condition 11.6, it is fair and reasonable that the Supplier should seek to limit and restrict its liability to the Customer.

12 Indemnity

The Customer shall (and shall ensure that any third party to whom any Products may subsequently be supplied) comply with all instructions and recommendations of the Supplier in relation to the installation, assembly, storage, maintenance and use of the Products, and, except to the extent any of these are caused by the negligence of the Supplier, the Customer shall keep the Supplier fully and effectually indemnified (on an after tax basis) against all costs, claims, demands, expenses and liabilities of whatsoever nature and wheresoever arising, including, without limitation, claims for consequential loss and loss of profit which may be made against the Supplier or which the Supplier may sustain, pay or incur arising out of or in connection with the Customer's failure so to comply and/or to ensure that any third party to whom any Products have subsequently been supplied so complies.

13 Default and Customer's Insolvency

- 13.1 In the event that:
- 13.1.1 there is any default or breach of any of the Customer's obligations under these Conditions, including without limitation any failure to make any payments due under any contract to which these Conditions apply;
- 13.1.2 the Customer shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any petition or receiving order is presented or made against the Customer or if any order, resolution or petition to wind it up shall be passed or presented or a receiver, administrator, manager or administrative receiver of all or any of its assets shall be appointed, or if the Customer is liable to be found unable to pay its debts within the meaning of s.123 Insolvency Act 1986 or undergoes any similar or analogous process in any jurisdiction;
- 13.1.3 the Customer's ability to carry out its obligations under these Conditions is prevented or hindered or substantially interfered with for any reason (whether or not within the control of the Customer);
- 13.1.4 there is a material change in the control or ownership of the Customer,

13.2 then, (without prejudice to any other remedies the Supplier might have) outstanding unpaid invoices rendered by the Supplier in respect of the Products shall become immediately payable by the Customer and (except where the Supplier exercises its rights under conditions 13.2.1, 13.2.2 or 13.2.3) invoices in respect of Products ordered prior to termination but for which an invoice has not been submitted shall be payable immediately upon submission of the invoice, and the Supplier shall be entitled to take any or all of the following steps at its discretion:

13.2.1 refuse to make delivery of any further consignment of any Products agreed to be supplied, including cancelling any outstanding delivery or stopping any Products in transit;

13.2.2 cancel or suspend any contract to which these Conditions apply (either in whole or part) by notice in writing to the Customer;

13.2.3 sell or otherwise dispose of any Products which are the subject of any order by the Customer and apply the proceeds of sale to the overdue payment.

13.3 In the event any contract to which these Conditions apply is terminated by the Supplier under condition 13.1 or cancelled by the Customer (other than as a result of the Supplier's breach or negligence), the Customer shall indemnify the Supplier against all losses arising out of such cancellation or termination. Such losses shall be deemed to include loss of profits, the cost of work in progress, labour costs and the cost of any materials or components purchased by the Supplier for use in manufacturing the Products for the Customer which were not so used and which the Supplier will be unable to use in future in the production or manufacture of any other products.

13.4 Termination of any contract to which these Conditions apply shall be without prejudice to any rights accrued in favour of either party prior to the date of such termination.

14 **Assignment**

The Customer may not assign or transfer or purport to assign or transfer any contract to which these Conditions apply or the benefit of such contract to any person.

15 **Force Majeure**

15.1 If the Supplier is prevented from fulfilling any order or contract within a reasonable time by force majeure, it will notify the Customer of the delay. The Supplier shall be under no liability to the Customer and shall be entitled to extend the time or times for delivery or otherwise performing such contract for so long as such cause of prevention or delay shall continue.

15.2 If the event of force majeure continues for a period of more than 28 days, both the Customer and the Supplier shall have the right on giving notice to the other to terminate any contract to which these Conditions apply provided that, at the time of giving such notice to terminate, the Supplier has not yet fulfilled the order.

15.3 For the purpose of these Conditions "**force majeure**" shall be deemed to be any cause affecting the performance of these Conditions arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of the Supplier including for the avoidance of doubt any epidemic or pandemic.

16 **Severability**

Except in so far as the context otherwise requires, each provision in these conditions shall be construed as independent of every other provision, and if any provision hereof is or becomes partially or totally invalid or unenforceable then the validity and enforceability of the remaining provisions shall not be affected.

17 **Entire Agreement**

- 17.1 For the purposes of this clause, “**Pre-Contractual Statement**” means any statement, undertaking, promise, assurance, warranty, understanding or any representation or misrepresentation (whether contractual or non contractual and whether negligently or innocently made) relating to the subject matter of this agreement and other than as expressly set out in this agreement as a Warranty, whether in writing or not and whether made by any person (whether party to this agreement or not).
- 17.2 This agreement constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement, draft agreement, arrangement or understanding (whether in writing or not) between the Parties relating to the subject matter of this agreement.
- 17.3 Each of the Parties acknowledges and agrees that in entering into this agreement it does not rely on any Pre-Contractual Statement.
- 17.4 Each of the Parties acknowledges and agrees that:
- 17.4.1 the only remedy available to it (i) in relation to any Pre-Contractual Statement (ii) for misrepresentation by omission or (iii) otherwise in relation to this agreement shall be for breach of contract/Warranty under the terms of this agreement; and
 - 17.4.2 it shall have no right of action (including the right of rescission or termination) against any other Party in respect of any Pre-Contractual Statement, omission or otherwise in relation to this agreement.

18 **Waiver**

A failure by either party to exercise or enforce any right conferred upon it by these Conditions shall not be deemed to be a waiver of such right or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

19 **Notices**

- 19.1 Any notice to be given under these Conditions shall be given by delivering the same personally or by sending the same by special delivery or by facsimile transmission to the address as set out on page 1 of these Conditions (in the case of the Customer) or the relevant order (in the case of the Supplier) or to such other address as may be notified by the other for this purpose to the party seeking to give such notice.
- 19.2 Any notice given pursuant to condition 19.1 shall be deemed to have been received when sent by special delivery 24 hours from the date of posting and shall be deemed when sent by facsimile transmission to be received at the time of transmission provided that the party giving the notice proves that the registered envelope containing the notice was correctly addressed or proves the date, time and correct number of the facsimile transmission.

20 **Confidentiality**

- 20.1 The Customer shall at all times keep any confidential information relating to the Products or to the Supplier’s business confidential, whether such information is disclosed to it by the Supplier or whether it comes to the Customer’s knowledge by other means and whether or not it is expressly stated to be confidential or marked as such, and not to disclose it to any other person and shall not use any such confidential information for any purpose other than the performance of its obligations under these Conditions provided that this restriction shall not extend to any confidential information which:
- 20.1.1 is at the date of the contract to which these Conditions apply, or becomes thereafter, public knowledge through no fault of the Customer; or

- 20.1.2 can be shown by the Customer, to the reasonable satisfaction of the Supplier, to have been known to the Customer prior to its being disclosed to the Customer by the Supplier.
- 20.2 Condition 20.1 shall not apply so as to prevent disclosure of confidential information relating to the Products or to the Supplier's business where such disclosure is required to be made by virtue of:
 - 20.2.1 any court or governmental or other authority or regulatory body; or
 - 20.2.2 any applicable law or regulation.

21 **Other Provisions**

Nothing in these Conditions shall be taken to constitute a partnership or the relationship of employer and employee between the parties to these conditions.

22 **Anti-Corruption**

- 22.1 For the purposes of this clause "Anti-Corruption Laws" means (i) the United Kingdom Bribery Act 2010 (or any re-enactment or modification of such Act) and (ii) any and all anti-corruption and/or anti-bribery laws and regulations now or from time in force in any jurisdiction which may be applicable to the respective parties to, or the terms or implementation of, these Terms or any agreement to be entered into pursuant to these Terms.
- 22.2 The Customer warrants and undertakes that neither it nor any of its officers, employees, agents, contractors or sub-contractors has done, or permitted to be done, or will do or will permit to be done, anything which:
 - 22.2.1 is in breach, or is likely to have been in breach, of any Anti-Corruption Laws; or
 - 22.2.2 will result, or is likely to result, in the Supplier being in breach of any Anti-Corruption Laws.

23 **Law**

- 23.1 These Conditions and any contract to which these Conditions apply are governed by and shall be construed in accordance with the laws of England. Non-contractual obligations (if any) arising out of or in connection with these Conditions and any contract to which these Conditions apply (including its/their formation) shall also be governed by the laws of England.
- 23.2 The Supplier and the Customer submit to the exclusive jurisdiction of the courts of England and Wales as regards any claim, dispute or matter (whether contractual or non-contractual) arising out of or in connection with these Conditions and any contract to which these Conditions apply or any of the documents to be entered into pursuant to these Conditions and any contract to which these Conditions apply (including its formation).

24 **Anti-bribery and corruption policy**

- 24.1 The Customer warrants and undertakes to the Supplier that:
 - 24.1.1 it has and will maintain in place an anti-bribery and corruption policy; and
 - 24.1.2 it will, and will take reasonable steps to procure that its directors, officers, employees, and contractors, comply with such anti-bribery and corruption policy.