

Standard Terms and Conditions for the Supply of Goods or Services [UK]

1. Definitions and Interpretations

1.1. In these Conditions:

“Business Day” means any day other than a Saturday, Sunday or bank holiday in England;

“Customer” means the person who accepts a quotation or offer from the Supplier for the supply of Goods or Services or whose order for the Goods or Services is accepted by the Supplier;

“Conditions” means the standard terms and conditions of sale for the supply of Goods or Services set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Supplier;

“Contract” means the contract for the supply of the Goods or Services under these Conditions;

“Delivery Date” means the delivery date for the Goods as stipulated in the Contract;

“Goods” means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply under the Contract;

“Incoterms” means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail;

“Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Month” means a calendar month;

“Services” means the services which the Supplier is to perform under the Contract; and

“Supplier” means GVS Filter Technology UK Ltd or any of its subsidiaries.

1.2. Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4. The word “or” has the inclusive meaning represented by the phrase “and/or”.

2. Application of Conditions

The Supplier shall supply and the Customer shall purchase the Goods or Services in accordance with: (i) any quotation or offer of the Supplier which is accepted by the Customer; or (ii) any order of the Customer which is accepted by the Supplier, subject in either case to these Conditions which shall govern the Contract to the exclusion of any other terms (insofar as they may be lawfully excluded) including, without limitation, any conditions, warranties and representations, written or oral, express or implied (whether by statute, common law or otherwise), even if contained in any of the Customer’s documents which purport to provide that the Customer’s terms will prevail. The Conditions are the only terms and conditions upon which the Supplier is prepared to deal with the Customer.

3. Basis of Supply

3.1. The Contract constitutes the entire agreement between the parties in respect of its subject matter. Except for any representations or claims made by the Supplier’s employees or agents which are confirmed in writing by the Supplier, the Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

3.2. Sales literature, price lists and other documents issued by the Supplier in relation to the Goods or Services are issued or published for the sole purpose of giving an approximate idea of the Goods or Services described in them. They are subject to alteration without notice and do not constitute offers to supply the Goods or Services which are

capable of acceptance. Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier. An order placed by the Customer constitutes an offer by the Customer to purchase the Goods or Services in accordance with these Conditions. An order may not be withdrawn, cancelled or altered prior to acceptance by the Supplier except with the written agreement of Supplier.

3.3. No contract for the supply of Goods or Services shall be binding on the Supplier unless: (i) the Supplier has issued a quotation which is expressed to be an offer to supply the Goods or Services; or (ii) the Supplier has accepted an order placed by the Customer by whichever is the earlier of:

3.3.1. the written acceptance of Customer’s order by an authorised representative of the Supplier;

3.3.2. delivery of the Goods or performance of the Services; or

3.3.3. the Supplier’s invoice.

3.4. No order which has been accepted by the Supplier (or quotation which has been accepted by the Customer) may be cancelled by the Customer except with the agreement in writing of the Supplier and on terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of such cancellation.

3.5. No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.

4. Specifications

4.1. The specification for the Goods shall be those set out in the Supplier’s sales documentation unless varied expressly in the Customer’s order (if accepted by the Supplier). The Goods will only be supplied in the minimum units (or multiples) stated in the Supplier’s price list or in multiples of the sales order as specified. Orders received for quantities other than these will be adjusted accordingly. Illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Supplier are intended as a guide only and the contents shall not be binding on the Supplier.

4.2. The Supplier reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Supplier’s specification, which do not materially affect their quality or performance.

4.3. The Supplier 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.

4.4. To the extent that the Goods are to be manufactured in accordance with a drawing, design or specification provided by Customer, Customer agrees to indemnify the Supplier against all liabilities, costs, expenses, damages and losses of any nature whatsoever and whether or not reasonably foreseeable or avoidable suffered or incurred by the Supplier in connection with any claim made against Supplier for actual or alleged infringement of a third party’s intellectual property rights (or any other rights) arising out of or otherwise relating to any drawing, design or specification supplied by the Customer.

5. Price of the Goods or Services

5.1. The price of the Goods or Services shall be the price listed in the Supplier’s published price list current at the date of acceptance of the Customer’s order or such other price as may be agreed in writing by the Supplier and the Customer.

5.2. Where the Supplier has quoted a price for the Goods or Services other than in accordance with the Supplier’s published price list (or where the Goods or Services in question are not on the Supplier’s published price list), the price quoted shall be valid and capable of acceptance for thirty (30) days only (or such other time as the Supplier may specify in writing).

5.3. The Supplier’s standard daily fee rates for each individual are calculated on the basis of an eight (8) hour day worked during normal hours on Business Days. The Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and

any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

- 5.4. The Supplier reserves the right to increase its standard daily fee rates. The Supplier will give the Customer written notice of any such increase at least one (1) month before the proposed date of the increase.
- 5.5. The Supplier reserves the right, by giving notice to the Customer at any time before delivery of the Goods or performance of the Services, to increase the price of the Goods or Services to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (such as, without limitation, any foreign exchange fluctuation, currency regulation or alteration of duties, any change in delivery dates, quantities or specifications for the Goods or Services which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions).
- 5.6. The price is exclusive of any applicable value added tax excise, sales or taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods or Services, which the Customer shall be additionally liable to pay to the Supplier.
- 6. Terms of Payment**
- 6.1. Subject to any special terms agreed in writing between the Customer and the Supplier, the Supplier shall invoice the Customer on or at any time after despatch of the relevant Goods or the commencement of performance of the Services.
- 6.2. Invoices in respect of Goods are based on the quantity and condition of Goods and at weights established by the Supplier when the Goods leave the Supplier's factory or warehouse.
- 6.3. Subject always to Clause 6.6 below, the Customer shall pay invoices in full and in cleared funds within thirty (30) days of the relevant invoice date. Time is of the essence for payment.
- 6.4. For Goods which are leased or rented, the Customer will set up a standing order to the bank account nominated by the Supplier for the agreed rental/lease payments. The Customer will provide proof of this standing order being in place and the Goods will be despatched only once the first payment has been made. The Goods remain the property of the Supplier until the final payment has been made. Should the Customer miss the scheduled payments at any time during the lease/rental period without pre-agreement then the Supplier has the right to collect the Goods without further liability to the Customer. The Customer will be charged the standard call out fee for this collection and any funds already paid to the Supplier in respect of such Goods will not be returned.
- 6.5. All payments shall be made to the Supplier in the currency of the price stated in the Contract at its office as indicated on the form of acceptance or invoice issued by the Supplier without any deduction credit, counterclaim, set off or withholding whatsoever except as required by law. Supplier may, without limiting its other rights and remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 6.6. The Supplier is not obliged to accept orders from any customer or Customer who has not supplied the Supplier with references satisfactory to the Supplier. If at any time the Supplier is not satisfied as to the creditworthiness of the Customer, it may give notice in writing to the Customer that no further credit will be allowed to the Customer in which event the Customer shall be required to give security deposits in respect of Goods already despatched and no further Goods or Services will be supplied to the Customer other than against advance cash payment. Further, notwithstanding any payment terms contained in the Contract all amounts owing to the Customer to the Supplier shall be immediately payable in cash.

7. Termination

- 7.1. If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:
 - 7.1.1. cancel the order or suspend any further deliveries of Goods to, or the provision of Services to, the Customer;
 - 7.1.2. appropriate any payment made by the Customer to such of the Goods or Services (or goods supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer);
 - 7.1.3. charge the Customer interest (both before and after any judgment) on the amount unpaid, at 3% above the Bank of England's base rate. Such interest shall accrue on a daily basis from the due date until actual payment of the

outstanding amount, whether before or after judgment. The Customer will pay the interest together with the overdue amount.

7.2. In the event that:

- 7.2.1. the Customer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract and does not rectify this failure within 5 days; or
- 7.2.2. the Customer becomes subject to an administration order or makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or
- 7.2.3. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
- 7.2.4. the Customer ceases, or threatens to cease, to carry on business; or
- 7.2.5. any event occurs which, under the applicable law of any jurisdiction to which the Customer is subject, has an effect similar to that of any of the events referred to in this Clause; or
- 7.2.6. a statutory or regulatory change makes the supply of Goods or Services to the Customer illegal or unenforceable; or
- 7.2.7. the Supplier reasonably believes that any of the events mentioned above is about to concur in relation to the Customer and notifies the Customer accordingly,

then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel the Contract or suspend any further deliveries of Goods, or performance of Services, under the Contract without any liability to the Customer, and, if the Goods have been delivered (or Services have been provided) but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

- 7.3. Clauses which expressly or by implication survive termination or cancellation of any Contract shall continue in full force and effect and termination, however caused, shall be without prejudice to any rights or liabilities of either party accrued at the date of termination.

8. Delivery and Inspection of Goods

- 8.1. Delivery of the Goods shall take place in accordance with the Incoterms specified in the relevant Contract. Where no Incoterms are so specified (or where the parties otherwise so agree), Incoterms shall be EX WORK PRODUCTION PLANT. Therefore, shipment, insurance and inspection of goods shall be on the Customer.
- 8.2. In case the Parties agree in writing for different Incoterms, delivery of the Goods may be on the Supplier. In this case, delivery shall be made by the Supplier tendering bills of lading (or other appropriate documents) or by delivering the Goods to the place specified in the Customer's order(s) (as accepted in writing by the Supplier).
- 8.3. Delivery shall take place by the Customer collecting the Goods from the Supplier's premises at any time after the Supplier has notified the Customer that the Goods are ready for collection. Notwithstanding the foregoing, Goods despatched by post will be deemed delivered when the Goods are accepted by the post office in the country of the production plant.
- 8.4. The Supplier shall use its reasonable endeavours to comply with the shipping instructions given by the Customer with its order for the Goods, but the Supplier reserves the right to make part shipments and to ship by vessels of the Supplier's choice from any port in the Country or elsewhere.
- 8.5. Where the Customer is to provide a vessel for shipment of the Goods, the Supplier shall not be responsible for any charges resulting from failure by the Customer to give due notice of the vessel's time of arrival.
- 8.6. The Delivery Date quoted for delivery of the Goods is approximate only, and the time of delivery is not of the essence unless previously agreed by the Supplier in writing. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event under Clause 13.1 or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. The Goods may be delivered by the Supplier in advance of the Delivery Date upon giving reasonable notice to the Customer. If the Supplier delivers the Goods at any time after the Delivery Date the Customer shall not be entitled to refuse to take delivery of the Goods and Supplier shall have no liability for any loss or damage, whether direct, indirect or consequential, special or otherwise (including, without limitation, loss

of profit or lost business) suffered by the Customer in respect of such late delivery.

- 8.7. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Supplier to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 8.8. If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event under Clause 13.1 or the Customer's failure to provide the Supplier with adequate shipping or delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 8.9. Unless the Goods are being supplied and installed by the Supplier as part of the Services (in which case the Customer shall not be under any obligation to inspect the Goods), the Customer shall inspect the Goods and packaging immediately on delivery. The Customer may reject Goods delivered to it that do not comply with Clause 12.1 provided that: (i) none of the events listed in Clause 12.3 apply; and (ii) in the case of any defect which would have been apparent on any reasonable inspection of the Goods, Supplier is notified of the rejection within 7 days after delivery; or (iii) in the case of a latent defect (or in respect of Goods which are supplied and installed by the Supplier as part of the Services), Supplier is notified of the rejection within 15 days since the defect having become apparent.
- 8.10. If the Customer fails to give such written notice within the time periods specified in Clause 8.9 above, the Customer shall be deemed to have accepted the Goods and the Goods shall be presumed to be in all respects in accordance with the order (including, without limitation, in respect of quantity) and free from any defect.
- 8.11. Without prejudice to Clauses 8.9 and 8.10 above and Clause 12 below, if the Customer rejects Goods under Clause 8.9, the Customer's sole remedy shall be limited, at Supplier's election, to: (a) the repair or replacement of the Goods; (b) a refund of the price paid in respect of the rejected Goods (and any related Services); or (c) if the wrong quantity of the Goods has been delivered and it would be unreasonable for the Customer to accept the quantity of Goods delivered, to the supply of additional Goods or the return of the excess Goods at Supplier's expense. These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 8.12. The Customer shall keep intact as delivered, together with all packaging (to the extent not removed as part of the Services), any Goods that are the subject of a claim by the Customer under Clauses 8.9 and 8.11 for a period of at least twenty-one (21) days from notification of such claim within which period Supplier or its authorised agent shall have the right to investigate the claim and upon reasonable notice to inspect the Goods and related packaging.
- 8.13. If the Customer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Supplier shall be entitled upon giving written notice to the Customer to store or arrange for the storage of the Goods. Notwithstanding the provision of Clause 11.1 of these Conditions, upon provision of such written notice risk in such Goods shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay to the Supplier all costs and expenses including storage and insurance charges arising from such failure to take delivery.
- 8.14. The Supplier shall not be liable for any costs incurred (for whatever reason) after delivery of the Goods is deemed to have taken place. Where Goods are sold inclusive of any or all of the freight, handling, port or insurance charges, any increases in, or in the rates for, such charges arising after the date of the Contract and before the Goods are delivered (or arising through deviation to a new port or airport necessarily or at the Customer's request or through any delay howsoever caused) shall be for the Customer's account subject to the absolute discretion of the Supplier. Port surcharges and other incidental charges are not included in the freight rate will be for the Customer's account.
- 8.15. Import or customs duty or other official taxes or charges arising from or necessary to enable delivery of the Goods shall be for the

Customer's account and shall be reimbursed forthwith where paid by the Supplier.

9. Performance of the Services

- 9.1. The Supplier shall use reasonable endeavours to meet any performance dates specified in the Contract, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 9.2. The Customer shall:
 - 9.2.1. ensure that the terms of any order it places are complete and accurate;
 - 9.2.2. co-operate with the Supplier in all matters relating to the Services;
 - 9.2.3. provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;
 - 9.2.4. provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
 - 9.2.5. prepare the Customer's premises for the supply of the Services;
 - 9.2.6. obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start; and
 - 9.2.7. keep and maintain all materials, equipment, documents and other property of the Supplier ("Supplier Materials") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.

10. Insurance

- 10.1. Goods sold EXWORK (Incoterms) by the Supplier shall be insured by the Customer.
- 10.2. In case the Parties agree in writing for different Incoterms, with goods insured by the Supplier, Goods will be insured by the Supplier in accordance with Clause 10.3 below from the time the Goods leave the Supplier's warehouse or Supplier's place of storage at the commencement of transit, throughout the ordinary course of transit and until:
 - 10.2.1. delivery to the Customer's or other final warehouse or place of storage at the destination named in the Customer's order;
 - 10.2.2. delivery to any other warehouse or place of storage (whether prior to delivery at the destination named in the Customer's order or acknowledgement of order) which the Customer may elect to use either:
 - 10.2.2.1. for storage other than in the ordinary course of transit; or
 - 10.2.2.2. for allocation or distribution;
 - 10.2.3. the expiry of 60 days after completion of discharge over side of the Goods from the overseas vessel at the final port of discharge or on the expiry of 30 days after unloading the Goods insured from an aircraft at the final place of discharge, whichever shall first occur.
- 10.3. In case of Goods sold CIF (Incoterms), insurance shall be effected by the Supplier on behalf of and in the name of the Customer and shall be for the CIF (Incoterms) value of the Goods plus ten per cent (or such other percentage as may have been agreed in writing between the parties) against all marine and marine war and other marine risks (or air, air war or other air risks where appropriate). All special risks involved in the carriage of the Goods shall be for the Customer's account. Claims are payable abroad and are to be made by the Customer on the overseas agent of the Supplier's insurers.
- 10.4. All costs arising from the insurance being effected by the Supplier at the Customer's request on Goods sold other than CIF (Incoterms) shall be for the Customer's account.

11. Risk and Property

- 11.1. Risk of damage to or loss of the Goods shall pass to the Customer in accordance with the relevant provision of Incoterms or where Incoterms do not for any reason apply:
 - 11.1.1. in the case of Goods to be delivered at the Supplier's premises, the time when the Supplier notifies the Customer that the Goods are available for collection; or

- 11.1.2. in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods.
- 11.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, title in the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods (whether or not the Goods are delivered in instalments and have been paid for in part by the Customer pursuant to these Conditions) and all other goods agreed to be sold by the Supplier to the Customer for which payment is then due. Until such time the Customer:
- 11.2.1. shall hold the delivered Goods on a fiduciary basis as Supplier's bailee;
- 11.2.2. shall maintain the delivered Goods in satisfactory condition and keep them insured from the date of delivery for their full replacement value against any loss or damage with a reputable insurance company;
- 11.2.3. shall store the delivered Goods separately or in some other way ensure that they are readily identifiable as Supplier's property;
- 11.2.4. shall not remove, deface or obscure any identifying mark or packaging on or relating to the delivered Goods;
- 11.2.5. irrevocably authorises the representatives of Supplier to enter upon the Customer's premises where the delivered Goods are or are thought by Supplier to be stored for the purpose of repossessing them and subsequently reselling them;
- 11.2.6. shall give the Supplier such information relating to the delivered Goods as Supplier may require from time to time; and
- 11.2.7. may resell or use Goods in the ordinary course of its business.
- 11.3. The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so all money owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.
- 12. Warranties and Liability**
- 12.1. Subject to the other provisions of this Clause 12, the Supplier warrants that:
- 12.1.1. the Goods will: (i) correspond with their specification and be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) at the time of delivery; and (ii) be free from defects in design or manufacture and shall remain so for 12 months from date of despatch; and
- 12.1.2. the Services will be provided using reasonable care and skill.
- 12.2. Subject as otherwise expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law (including, without limitation, the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 and sections 13 to 15 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.
- 12.3. The Supplier shall not be liable for Goods' failure to comply with the warranty set out in Clause 12.1.1 in any of the following events:
- 12.3.1. any defect in the Goods arising from any drawing, design or specification supplied by the Customer;
- 12.3.2. the Customer alters or repairs such Goods without the written consent of the Supplier;
- 12.3.3. any defect in the Goods which was not reported to the Supplier in accordance with Clause 8.9 above;
- 12.3.4. the Customer makes any further use of such Goods after giving notice in accordance with Clause 8.9 above;
- 12.3.5. any defect arising from damage caused after delivery of the Goods;
- 12.3.6. any damage caused during transit (to the extent that risk in such Goods remained with the Supplier);
- 12.3.7. the Goods differ from the specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or
- 12.3.8. any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to abnormal conditions, failure to follow the Supplier's instructions (whether oral or in writing), misuse or alteration of the Goods without the Supplier's approval, or any other act or omission on the part of the Customer, its employees, agents consultants, subcontractors or any third party.
- 12.4. Mixing or use of the Goods is beyond the Supplier's control and accordingly all conditions and warranties, statutory or otherwise, as to fitness of the Goods for any particular purpose are expressly excluded.
- 12.5. No Goods may be returned to the Supplier without the prior agreement in writing of the Supplier. Subject thereto, any Goods returned which the Supplier is satisfied were supplied subject to defects of quality or condition which would not be apparent on any reasonable inspection may be replaced free of charge or, at the Supplier's sole discretion the Supplier may refund or credit to the Customer the price of the defective Goods, excluding costs incurred in returning the defective Goods, but the Supplier shall have not further liability to the Customer.
- 12.6. The Customer shall ensure that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labelling of the Goods, any use or sale of the Goods by the Customer is in compliance with all applicable laws and other regulatory requirements and that the storage and handling of the Goods by the Customer is carried out in accordance with directions given by the Supplier or any competent governmental or regulatory authority. The Customer will indemnify the Supplier against any liability loss or damage which the Supplier might suffer as a result of the Customer's failure to comply with this Clause 12.6.
- 12.7. Notwithstanding any provision of these Conditions, the Supplier does not exclude or limit its liability for:
- 12.7.1. death or personal injury caused by its negligence or that of any of its officers, employees or agents;
- 12.7.2. fraud or fraudulent misrepresentation; or
- 12.7.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 or any other liability to the extent the same may not be excluded or limited as a matter of law.
- 12.8. Except as expressly provided in these Conditions and subject to Clause 12.7, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, for any loss, damage, cost or expense of any nature whatsoever arising out of or sustained by the Customer in relation to any Contract, consisting of:
- 12.8.1. (a) loss of profit (b) anticipated loss of profit (c) loss of revenue (d) loss of opportunity (e) loss of sales or business (f) loss of market share (g) loss of goodwill or reputation (h) wasted expenditure (i) loss of use or corruption of software (j) loss of data or information (k) loss of agreements or contracts (l) loss of anticipated savings; or
- 12.8.2. any special, indirect, incidental or consequential damages, whether or not the possibility of such loss or damage could have been reasonably foreseen and whether or not actually contemplated by the parties.
- 12.9. Except as expressly provided in these Conditions and subject to Clause 12.7, the Supplier's total liability arising under or as a result of any Contract (whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation or otherwise) shall not in any circumstances exceed the price paid or payable by the Customer for the Goods or Services under the relevant Contract.
- 13. Force Majeure**
- 13.1. The Supplier shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in delivery or in performing, or any failure to perform, any of the Supplier's obligations in relation to the Goods or Services, if the delay or failure was due to any cause beyond the Supplier's reasonable control (a "Force Majeure Event") which includes, but is not limited to:
- 13.1.1. act of God, explosion, flood, tempest, fire or accident;
- 13.1.2. war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 13.1.3. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 13.1.4. import or export regulations or embargoes;
- 13.1.5. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Supplier or of a third party);
- 13.1.6. difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 13.1.7. power failure or breakdown in machinery.

- 13.2. If the Force Majeure Event prevents the Supplier from performing any of its obligations under the Contract for more than 40 days, the Supplier shall, without limiting its other rights or remedies, have the right to terminate the Contract immediately by giving written notice to the Customer.
- 14. Confidentiality, Publications and Endorsements**
- 14.1. The Customer undertakes to the Supplier that:
- 14.1.1. the Customer will regard as confidential the Contract and all information obtained by the Customer relating to the business and/or products of the Supplier and will not use or disclose to any third party such information without the Supplier's prior written consent provided that this undertaking shall not apply:
- 14.1.1.1. to its employees or officers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees or officers to whom it discloses the other party's confidential information comply with this Clause 14;
- 14.1.1.2. to information which is in the public domain other than by reason of the Customer's default; and
- 14.1.1.3. to such information required by law, a court of competent jurisdiction or any governmental or regulatory authority;
- 14.1.2. the Customer will not use or authorise or permit any other person to use any name, trade mark, house mark, emblem or symbol which the Supplier is licensed to use or which is owned by the Supplier upon any premises, notepaper, visiting cards, advertisements or other printed matter or in any other manner whatsoever unless such use shall have been previously authorised in writing by the Supplier and (where appropriate) its licensor;
- 14.1.3. the Customer will use all reasonable endeavours to ensure compliance with this condition by its employees, servants and agents. This Condition shall survive the termination of the Contract.
- 15. General**
- 15.1. When placing the order the Customer must advise the Supplier in writing of any special, legal, administrative or regulatory requirements applying in the territory in which the Customer is to import, use or sell the Goods (or provide the Services) as to composition, labelling, distributors, sale of the Goods or provision of the Services and the Customer must advise the Supplier immediately of any change made in such requirements.
- 15.2. The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination, including obtaining relevant import licences or similar permits, and for the payment of any duties thereon (unless otherwise agreed in writing by the Supplier).
- 15.3. The sale of the Goods to, or the provision of Services to, the Customer shall not confer any right or licence upon the Customer to use any logo, trade mark, patent, design or other intellectual property owned or used by Supplier subsisting in or relating to the Goods or Services and the Customer may only make use of such intellectual property as is permitted in any agreement between Supplier and Customer for the time being in force.
- 15.4. All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier. The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer. The Customer shall not sub-license, assign or otherwise transfer the rights granted under Clause 15.
- 15.5. The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.
- 15.6. The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 15.7. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.
- 15.8. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax, e-mail or certified e-mail. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in this Clause 15.8; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission. This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 15.9. No waiver by the Supplier of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. No failure or delay by Supplier to exercise any right or remedy provided under these Conditions or by law shall constitute a waiver of that (or any other) right or remedy and nor shall it preclude or restrict its further exercise.
- 15.10. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 15.11. These Conditions are intended to benefit only the parties hereto and their respective successors and permitted assigns and no provision of these Conditions shall be enforceable by any person or entity other than the parties to these Conditions.
- 15.12. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 15.13. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 16. Applicable Law and Jurisdiction**
- 16.1. These Conditions and any dispute or claim arising out of or in connection with these or their subject matter (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- 16.2. 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 these Conditions or their subject matter (including non-contractual disputes or claims).
- 16.3. The Uniform Laws on the International Sale of Goods laid down in the 1980 United Nations Convention shall not apply unless expressly agreed between the parties in writing.