

**TERMS & CONDITIONS  
OF  
ZEDCO (UK) LTD**

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## 1. Interpretation

### 1.1 Definitions:

**Conditions:** the terms and conditions set out in this document and as amended from time to time.

**Contract:** the contract between the Supplier and the Customer for the sale and purchase of the Products in accordance with these Conditions.

**Customer:** the person or firm who purchases the Products from the Supplier.

**Customer's Premises:** the place that the Customer trades from and which the Customer shall notify to the Supplier from time to time.

**Customer Account Number:** the unique reference number given to each Customer and included in the Invoice in the format of "AAA111".

**Delivery Point:** the Customer's Premises or such other location as specified on the Invoice and which has been accepted by the Supplier in the Order Confirmation.

**Expenses:** any out-of-pocket costs incurred by the Supplier in fulfilling an Order, including (without limitation):

- a) postage, packaging, carriage, freight, and handling charges;
- b) insurance;
- c) currency conversion and banking charges applicable to the payment method used;
- d) value added tax or any other applicable sales tax in the country in which the Supplier is resident; and
- e) any customs, import or other duties charged in respect of the sale and importation of Products into the country in which the Customer is resident or the Delivery Point is located.

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

**Invoice:** an invoice raised by the Supplier in accordance with clause 9.4.

**Net Selling Price:** the price of Products ordered by the Customer less any discounts granted to the Customer by the Supplier in writing from time to time.

**Order:** an order for Products submitted by the Customer to the Supplier by phone, email, the Supplier's website or the Supplier's Mobile App and accepted by the Supplier in writing in accordance with clause 3.

**Order Confirmation:** an order confirmation document sent by the Supplier to the Customer, in the form of a Pro Forma Invoice, agreeing to fulfil the Order.

**Payment Deposit:** an amount equal to 30% of the total Order value, to include any additional charges incurred by the Supplier

**Products:** the products as agreed on customer to customer basis.

**Pro Forma Invoice:** a Pro Forma Invoice raised by the Supplier in accordance with clause 3.4.

**Quarter:** each period of three calendar months ending on the last day of March, June, September and December in each year.

**Specification:** the specification of the Products set out in the Pro Forma Invoice or any other specification agreed in writing between the parties from time to time.

**Supplier:** Zedco (UK) Ltd (registered in England and Wales with company number 15270181).

**Year:** the period of 12 calendar months from the date of the Contract and each subsequent consecutive period of 12 calendar months.

- 1.2 A reference to one gender includes a reference to the other gender.
- 1.3 Words in the singular include the plural and in the plural include the singular.
- 1.4 A reference to a **person** includes an incorporated or unincorporated body.
- 1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.6 Unless the context otherwise requires, the words **including** and **include** and words of similar effect shall not be deemed to limit the general effect of the words which precede them.
- 1.7 The headings in this document are for ease of reference only and shall not affect its construction or interpretation.

## **2. Sale of the products**

- 2.1 Subject to clause 3.3 and subject to the Conditions, the Supplier shall sell and the Customer shall buy such quantities of the Products as may be ordered by the Customer from time to time.
- 2.2 These Conditions shall apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. These Conditions shall also apply to all future arrangements between the parties for the Supplier to supply and the Customer to buy goods unless the parties agree otherwise in writing.

## **3. Order process**

- 3.1 When the Customer wishes to place an order for Products, it shall either send an email to the Supplier or submit orally an order, provided that an order made orally must be confirmed in writing (bearing the additional words "confirmation of oral order") and received by the Supplier within three days from the date on which the Customer gave the oral order. An Order can also be placed on the Supplier's website or via the Supplier's Mobile App.
- 3.2 An Order shall be treated as an offer by the Customer to contract with the Supplier, but shall not be binding on the Customer until accepted by the Supplier in accordance with clause 3.3. The Supplier may, at its sole discretion, accept amendments to an Order after acceptance.
- 3.3 The Supplier shall, at its discretion, accept the Order using an Order Confirmation in accordance with clause 3.4 and such Order Confirmation shall be treated as acceptance of the Customer's Order.
- 3.4 The Order Confirmation shall be in the form of a Pro Forma Invoice which will have a unique pro forma number and will specify the Order and the total Order value.
- 3.5 The total Order value shall be adjusted from time to time depending on the Customer's region and ongoing price fluctuations, to include freight costs.
- 3.6 The Order shall be completed subject to availability of the Products.
- 3.7 The Supplier shall issue a final Invoice which will specify the agreed pricing in accordance with clause 9.4.
- 3.8 The Supplier shall arrange delivery of the Products in accordance with the Customer's instructions and the provisions, provided that the Customer shall be liable to pay for all Expenses incurred by the Supplier in complying with such instructions. Such Expenses shall be included on the Invoice for the relevant Products.
- 3.9 The UK based Customer shall arrange for the transport of the Products from the Collection Point and bear the cost of such transport.
- 3.10 The EU and international Customers may, at their discretion, opt to arrange for transport of the Products from the Collection Point and bear the cost of such transport.

3.11 The Conditions shall be binding upon the parties as soon as an Order is being placed, as set out in this clause 3, notwithstanding that the Customer may have not signed the Conditions.

#### **4. Forecasts of demand**

The Customer shall be aware that the stock of Products is subject to availability and therefore it would be in both parties' best interests if the Customer could notify the Supplier in writing of:

- (a) its estimated Orders for each Year;
- (b) its estimated Orders for the Products for each Quarter; and
- (c) any revisions to those estimates, immediately they are made, and shall ensure that such estimates are accurate and complete, but such estimates shall not constitute Orders.

#### **5. Specification of the products**

5.1 All warranties or conditions (whether express or implied) as to quality, condition, description, compliance with sample or fitness for purpose (whether statutory or otherwise) other than those expressly set out in these Conditions are excluded from the Contract to the fullest extent permitted by law.

5.2 The Supplier shall consult with the Customer from time to time to ensure that the Specification is acceptable to both parties, but the Supplier is not obliged to agree to any change requested by the Customer to the Specification or to the Products.

#### **6. Delivery of the products**

6.1 The Supplier will have fulfilled its contractual obligations in respect of each delivery provided that the quantity actually delivered is no greater than 10% more or less than the quantity specified on the Invoice. The Customer shall pay for the actual quantity delivered and the Invoice sent to the Customer prior to Delivery shall be amended accordingly.

6.2 The Customer shall collect the Products from the Collection Point within three Business Days of the Supplier notifying the Customer that the Products are ready for collection.

6.3 Delivery is completed on the completion of loading of the Products into the Customer's choice of transportation at the Collection Point.

6.4 If it is agreed between the parties, the Supplier shall arrange for Delivery of the Products and their suitable transport to the Delivery Point, where delivery is deemed to take place. Acceptance of any change to the Delivery Point requested by the Customer shall be at the Supplier's sole discretion and the Customer shall be liable for any additional Expenses incurred by the Supplier as a result of such change.

6.5 The Supplier may recommend that specific, perishable goods require special conditions of delivery, such as temperature - controlled containers. The risk shall be on the Customer if it does not agree to the special conditions of delivery and the Products get damaged or destroyed.

- 6.6 Delivery in relation to the supply by the Supplier of Products are approximate only and, unless otherwise expressly stated, time is not of the essence for delivery of the Products, subject to clause 6.7.
- 6.7 When it is expressly stated that time is of the essence for delivery or collection of the products and the Customer fails to take delivery or collect them, then the Supplier shall have the right to resell the Products.
- 6.8 The Supplier may effect delivery in one or more instalments.
- 6.9 Delays in the delivery of the Products shall not entitle the Customer to:
- (a) refuse to take delivery of the Products; or
  - (b) claim damages; or
  - (c) terminate the Contract; or
  - (d) claim any sort of compensation not covered under 6.9(a) – (c) above.
- 6.10 The Supplier shall have no liability for any failure or delay in delivering the Products to the extent that any failure or delay is caused by the Customer's failure to comply with its obligations under these Conditions.
- 6.11 If the Customer fails to take delivery of the Products within three Business Days of the Supplier notifying the Customer that the Products are ready for collection and when it is not expressly stated that time of delivery is of the essence, then, except where that failure or delay is caused by the supplier's failure to comply with its obligations under these Conditions:
- (a) delivery of the Products shall be deemed to have been completed at 6pm on the third business Day following the day on which the Supplier notified the customer that the products were ready for Collection; or
  - (b) the Supplier shall store the Products, upon the Customer's request, until delivery takes place, and charge the Customer for all related costs and expenses (including insurance). The Supplier shall be entitled to deduct the related costs from the Payment Deposit if a Delivery date is agreed between the parties.

## **7. Acceptance and defective products**

- 7.1 The Customer may reject any Products delivered to it that do not comply with the Specification, provided that:
- (a) notice of rejection is given to the Supplier:
    - (i) in the case of a defect that is apparent on normal visual inspection, within 1 Business Days of Delivery;
    - (ii) in the case of a latent defect, within 1 Business Day of the latent defect having become apparent;

- (b) the Supplier receives photos showing the defected or damaged Products within 2 business Days of delivery or collection. Regarding the export container orders, the photos shall be sent to the Supplier within 24 hours from offloading the container;
- (c) an inspector's report is produced upon the Supplier's request; and
- (d) none of the events listed in clause 7.3 apply.

7.2 If the Customer fails to give notice of rejection in accordance with clause 7.1, it shall be deemed to have accepted these Products.

7.3 The Supplier shall not be liable for a Products' failure to comply with the Specification in any of the following events:

- (a) the Customer makes any further use, including selling, of those Products after giving notice in accordance with clause 7.1;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions for the unloading, storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
- (d) the Customer alters or repairs those Products without the written consent of the supplier;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Products differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

7.4 If the Customer rejects Products under clause 7.1 then the Customer shall be entitled to:

- (a) require the Supplier to attempt to repair or replace the rejected Products; or
- (b) require the Supplier to repay the price of the rejected Products in full.

7.5 Once the Supplier has complied with the Customer's request under clause 7.4, it shall have no further liability to the Customer for the rejected Products' failure to comply with the specification.

## **8. Import licences**

The Customer is responsible for obtaining, at its own cost, such import licences and other consents in relation to the Products as are required from time to time from various government regulations and local customs and, if required by the Supplier, the Customer shall make those licences and consents



available to the Supplier prior to the relevant shipment.

## **9. Prices and payment**

- 9.1 The Customer shall pay the Supplier for the Products in accordance with the provisions of this clause 9.
- 9.2 The Products prices may be varied from time to time by the Supplier.
- 9.3 The Supplier may, by giving notice to the Customer at any time up to 2 Business Days before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:
- (a) any factor beyond the Supplier's control (including without limitation foreign exchange fluctuations, increases in taxes and duties, increases in transport costs, and increases in labour, materials and other manufacturing costs);
  - (b) any request by the Customer to change the delivery date(s), quantities or types of Products ordered, or the Specification; or
  - (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 9.4 The Supplier shall be entitled to invoice the Customer for each Order and all related expenses on or at any time after acceptance of the Order and before Delivery. Occasionally the Supplier shall be entitled to invoice the Customer after Delivery, on a customer to customer basis.
- 9.5 The Customer shall pay the Payment Deposit within 7 days after receipt of the ProForma Invoice. Orders will not be processed until the Supplier receives the Payment Deposit. The Payment Deposit is non-refundable.
- 9.6 The non-UK based Customer shall pay to the Supplier the total amount of each Invoice, after deducting the Payment Deposit already paid, by BACS to the Supplier's bank account before the estimated date of delivery of the Products, notwithstanding that property in the Products has not passed to the Customer yet.
- 9.7 The UK - based Customer shall pay to the Supplier the total amount of the Invoice, after deducting the Payment Deposit already paid, on collection from the Collection Point or within 30 days from collection, at the Supplier's discretion, and if there are credit arrangements in place between the Customer and the Supplier.
- 9.8 All amounts of money referred to in these Conditions shall be interpreted as being amounts exclusive of value added tax, any similar sales tax or any tax that replaces such sales taxes. Any such tax payable in relation to any such amounts shall be paid in addition to those amounts by the Customer after receipt of a relevant invoice. If the Customer is required under any applicable law to withhold or deduct any amount from the payments due to the Supplier, the Customer shall increase the sum it pays to the Supplier by the amount necessary to leave the Supplier with an amount equal to the sum it would have received if no such withholdings or deductions had been made.

9.9 All amounts due to the Supplier under the Contract shall become due immediately if the contract is terminated or novated despite any other provision.

9.10 The time for payment shall be of the essence and no payment shall be deemed to have been made until the Supplier has received payment in cleared funds.

9.11 If the Customer fails to make any payment due to the Supplier under these Conditions and the Contract by the due date for payment, then, without limiting the Supplier's remedies under these Conditions, the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

9.12 The Supplier shall have the right to resell the Products, at its own discretion, if the customers:

- (a) fails to settle the overdue amount owed to the Supplier, according to clause 9.11, after 7 days of the amount becoming overdue; or
  - (b) fails to accept delivery or collect the Products within 14 days and in accordance with clause 6.11 and 6.12
- 9.13 In relation to payments disputed in good faith, interest under this clause is payable only after the dispute is resolved, on sums found or agreed to be due, from the due date until payment, and only in the case that the dispute is not resolved in favour of the Customer.

9.13 All amounts due under these Conditions and the Contract shall be paid by the Customer to the Supplier in full without any counterclaim, deduction or withholding. The Supplier shall have the right to set-off, at any time, any amount owed to it by the Customer against any amount payable by the Supplier to the Customer.

## **10. Resale**

The Customer shall be permitted to resell the Products to third parties, only after ownership of the Products has passed to the Customer in accordance with clause 11.

## **11. Title and risk**

11.1 Risk in and responsibility for the Products shall pass to the Customer once they have been dispatched from the Supplier's warehouse to be delivered to the carrier appointed to deliver the Products to the Delivery Point.

11.2 When the Customer collects the Products from the Collection Point, risk and responsibility shall pass to the Customer once the Products are loaded from the Collection Point.

11.3 Ownership of the Products shall not pass to the Customer until the Supplier has received payment in full of all monies owed by the Customer to the Supplier.

## **12. Changes**

12.1 The Supplier may, immediately on giving written notice to the Customer:

- (a) exclude from the Contract one or more of the Products as it thinks fit;
- (b) elect to alter the Specification of any of the Products, provided that the alteration does not materially adversely affect the quality or value of the Products; or
- (c) include any modified version of the Products, additional goods or replacements for the Products.

12.2 The Supplier may, on giving written notice to the Customer, elect to alter the Specification of any of the Products otherwise than in accordance with clause 12.1(b). Where the Customer has placed an Order and the Supplier has accepted that Order using an Order Confirmation, and the Specification of any of the Products contained in that Order are varied in accordance with this clause 12.2, the Customer may cancel the part of the Order that relates to the varied Products only.

12.3 The Supplier may, on giving written notice to the Customer, exclude from the Contract one or more of the Products as it thinks fit otherwise than in accordance with clause; 12.1(a). Where the Customer has placed an Order and the Supplier has accepted that Order using an Order Confirmation, and any of the Products contained in that Order are excluded from the Contract, the Order shall automatically be varied to exclude such excluded Products.

### **13. Intellectual property rights**

13.1 The Customer acknowledges that:

- (a) the Intellectual Property Rights are the Supplier's (or its licensor's) property;
- (b) nothing in these Conditions shall be construed as conferring any licence or granting any rights in favour of the Customer in relation to the Intellectual Property Rights. The Supplier asserts its full rights to control the use of its trade marks within the EEA and the Customer shall assist the Supplier as required in preventing parallel importers from diluting the Supplier's rights; and
- (c) any reputation in any trade marks affixed or applied to the Products shall accrue to the sole benefit of the Supplier or any other owner of the trade marks from time to time.

13.2 The Customer shall not repackage the Products and/or remove any copyright notices, confidential or proprietary legends or identification from the Products.

13.3 The Customer shall not use (other than pursuant to these Conditions) or seek to register any trade mark or trade name (including any company name) which is identical to, confusingly similar to or incorporates any trade mark or trade name which the Supplier or any associated company of Supplier owns or claims rights in anywhere in the world.

13.4 If at any time it is alleged that the Products infringe the rights of any third party or if, in the Supplier's reasonable opinion, such an allegation is likely to be made, the Supplier may at its option and its own cost:

- (a) modify or replace the Products in order to avoid the infringement; or
- (b) procure for the Customer the right to continue using the Products; or
- (c) repurchase the Products at the price paid by the Customer, less depreciation at the rate the Supplier applies to its own equipment.

13.5 The Customer shall promptly and fully notify the Supplier of:

- (a) any actual, threatened or suspected infringement of any Intellectual Property rights which comes to the Customer's notice; and
- (b) any claim by any third party that comes to the Customer's notice that the sale or advertisement of the Products infringes the rights of any person.

13.6 The Customer agrees (at the Supplier's request) to do all such things as may be reasonably required to assist the Supplier in taking or resisting any proceedings in relation to any infringement or claim referred to in clause 13.5.

13.7 In the event of any claim, proceeding or suit by a third party against the Customer alleging an infringement of any Intellectual Property Right connected with the Products, the Supplier shall defend the Customer, subject to:

- (a) the Customer promptly notifying the Supplier in writing of any such claim, proceeding or suit; and
- (b) the Supplier being given sole control of the defence of the claim, proceeding or suit, and provided that the Supplier shall not be liable for infringements to the extent that they arise out of or in connection with modifications to the Products made by anyone except the Supplier or its authorised representative, or out of use or combination of the Products with products or third party materials not specified or expressly approved in advance in writing by the Supplier, or where the claim, proceeding or suit arises from the Supplier's adherence to the Customer's requested changes to the Specification or from infringing items of the Customer's origin, design or selection.

## **14. Confidentiality**

14.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2.

14.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these Conditions. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 14; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

14.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these conditions.

## 15. Termination

15.1 These Conditions shall take effect when the parties enter into discussions and negotiations about entering into a Contract. The Contract, once entered into by the parties, shall renew automatically after the expiry of 12 months unless terminated by either party in writing subject to the provisions of this clause 15.

15.2 Either party may terminate the Contract by giving written notice to the other party if any of the following events occurs:

- (a) the other party commits a material breach of these Conditions which (in the case of a breach capable of remedy) has not been remedied within 30 days of the receipt by the other of a notice specifying the breach and requiring its remedy; or
- (b) a winding-up order or bankruptcy order is made against the other party; or
- (c) the other party passes a resolution or makes a determination for it to be wound up (without a declaration of solvency/except for the purposes of amalgamation or reconstruction, the terms of which have been previously approved in writing by the other party); or
- (d) the other party has appointed to it an administrator or an administrative receiver; or
- (e) being a partnership in addition to the above, suffers bankruptcy orders being made against all of its partners.
- (f) an incumbrancer takes possession, or a receiver, manager or administrative receiver is appointed, of the whole or any part of the other party's assets;
- (g) the other party ceases or suspends payment of any of its debts, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (h) any arrangement, compromise or composition in satisfaction of its debts is proposed or entered into; or
- (i) the other party ceases, or threatens to cease, to carry on business; or
- (j) any event analogous to those described in clause 15.2(b) to clause 15.2(h) occurs in relation to the other party in any jurisdiction in which that other party is incorporated, resident or carries on business.

15.3 Following the expiry of the Term or the earlier termination of the Contract for any reason whatsoever, the Supplier shall be entitled (at its option) to cancel any Orders which have not yet been delivered.

15.4 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of these Conditions and the Contract which existed at or before the date of termination or expiry.

## **16. Force majeure**

Neither party shall be in breach of these Conditions nor liable for delay in performing, or failure to perform, any of its obligations under these Conditions if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 6 months, the party not affected may terminate the Contract by giving 28 days' written notice to the affected party.

## **17. Entire agreement**

17.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. 17.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

## **18. Waiver of rights based on misrepresentation**

18.1 Each party unconditionally waives any rights it may have to claim damages against the other on the basis of any oral or written statement made by the other or by its legal advisers (whether made carelessly or not) that is not set out or referred to in these Conditions (or for breach of any warranty given by the other not so set out or referred to), unless such statement or warranty was made or given fraudulently.

18.2 Each party unconditionally waives any rights it may have to seek to rescind the Contract on the basis of any statement made by the other (whether made carelessly or not), unless such statement was made fraudulently.

## **19. Limitation of liability**

19.1 The Supplier's total liability in contract, tort (including negligence), misrepresentation or otherwise in relation to these Conditions shall be limited to the gross profit during the previous 12 months, or, if the date of the breach is less than 12 months after the date the Customer entered into the Contract, the price of the Products to which the claim relates.

19.2 The Supplier shall not be liable to the Customer for:

- (a) any indirect, special or consequential loss or damage; or
- (b) loss of data or other equipment or property; or
- (c) economic loss or damage; or
- (d) incurring of liability for loss or damage of any nature whatsoever suffered by third parties (including in each case incidental and punitive damages); or
- (e) any loss of actual or anticipated profit, interest, revenue, anticipated savings or business or damage to goodwill, even if the Supplier is advised in advance of the possibility of any such losses or damages.

19.3 The Supplier shall not be liable for any losses arising from the Customer's subsequent use or misuse of the Products including (without limitation):

- (a) fair wear and tear;
- (b) wilful damage;
- (c) the Customer's negligence, or that of its agents or employees, or any failure to follow the Supplier's instructions as to use of the Products;
- (d) abnormal working conditions beyond those referred to in the Specification; and
- (e) any alteration or repair of the Products by any manufacturing process or otherwise, save for any latent defect which means that the Product did not comply with the Specification.

19.4 The Supplier is not liable for a defect in the Products unless it is notified to the Supplier within 1 Business Day of the date of delivery or, if the defect would not be apparent on reasonable inspection, within 1 month of the date of delivery.

19.5 The Supplier is not liable for:

- (a) shortages in the quantity of Products delivered in excess of those permitted by clause 6.1, unless the Customer notifies the Supplier of a claim within 1 Business Day of receipt of the Products; or
- (b) damage to or loss of all or part of the Products in transit (where the Products are carried by the Supplier's own transport or by a carrier on behalf of the Supplier), unless the Customer notifies the Supplier within 1 Business Day of receipt of the Products or the scheduled date of delivery, whichever is the earlier.

19.6 The Customer acknowledges and agrees that the price of the Products reflects the limitations of liability contained in these Conditions.

## **20. Assignment**

The Customer shall not, without the prior written consent of the Supplier, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under these Conditions.

## **21. Cumulative remedies**

The rights and remedies provided under these Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

## **22. No partnership or agency**

22.1 Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## **23. Severance**

23.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the contract.

23.2 If one party gives notice to the other of the possibility that any provision or part-provision of the Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **24. Amendment and waiver**

24.1 No variation of these Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

24.2 No failure or delay by a party 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, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **25. Third party rights**

No person who is not party to the Contract shall have any right to enforce any term of the contract.



## **26. Notices**

26.1 Any notice or other communication given to a party under or in connection with these conditions shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(b) sent by email to the most recent email address provided.

26.2 Any notice or communication shall be deemed to have been received:

(a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service;

(c) if sent by e-mail, at 9.00 am on the next Business Day after transmission.

26.3 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.

## **27. Survival of obligations**

Any of the provisions of the Contract that are expressed to take effect in whole or in part on or after termination, or are capable of having effect after termination, shall remain in full force and effect despite termination.

## **28. Governing law and jurisdiction**

28.1 These Conditions and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales. The international rules for the interpretation of trade terms prepared by the International Chamber of Commerce (Incoterms) shall apply but where they conflict with them, the Conditions shall prevail.

28.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Conditions or their subject matter or formation.

28.3 Each party irrevocably consents to any process in any legal action or proceedings under clause 28.1 above being served on it in accordance with the provisions of these Conditions relating to service of notices. Nothing contained in here shall affect the right to serve process in any other manner permitted by law.

28.4 Nothing in this clause 28 shall limit the right of the Supplier to take proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdiction preclude the Supplier from taking proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.