

PROLEC LIMITED TERMS AND CONDITIONS FOR SALE

1. Interpretation

1.1 In these Conditions unless the context otherwise requires:

'Client' means the person named on the Specification Sheet for whom the Supplier has agreed to provide the Specified Service and/or Goods in accordance with these Conditions

'Client's Equipment' means the materials, instruments, equipment, access to utilities and/or services to be provided to the Supplier by the Client in order to facilitate the provision of the Specified Service as required or as agreed and set out in the Specification Sheet

'Conditions' means the standard terms and conditions of sale and supply of services set out in this document and (unless the context otherwise requires) includes any special terms and conditions expressly agreed in writing between the Client and the Supplier

'Contract' means the contract for the provision of the Specified Service, sale of Goods or any combination thereof incorporating these Conditions.

'Document' includes, in addition to a document in writing, any map, plan, graph, drawing or photograph, any film, negative, tape, disc or other device embodying visual images and any disc, tape or other device embodying any other data

'Goods' means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with the Contract and these Conditions

'Input Material' means any Documents or other materials, and any data or other information provided by the Client relating to the Specified Service

'Losses' or 'Claims' includes all actions, claims, demands, causes of action, proceedings, damages, awards, payments, losses, costs, expenses, penalties, fines, compensation or other liabilities (direct, indirect, consequential or otherwise including loss of profit, business, turnover or market share), legal or professional expenses and interest thereon;

'Order' means any written instructions issued by the Client to the Supplier for the provision of Goods or Specified Services

'Output Material' means any Documents or other materials, and any data or other information provided by the Supplier relating to the Specified Service

'party' means each of the Client and the Supplier and 'parties' shall be construed accordingly;

'Price' means the total charge made or to be made by the Supplier for the provision of the Specified Service or sale of the Goods as further defined in the Contract;

'Site' means the location at which the Specified Service is to be provided as set out in the Specification Sheet.

'Specification Sheet' means the specification sheet referred to in the Contract;

'Specified Service' means the service to be provided by the Supplier for the Client and referred to in the Contract

'Supplier' means Prolec Limited (registered in England and Wales under number 1689109)

'Supplier's Standard Charges' means the charges shown in the Specification Sheet relating to the Specified Service; and

'Writing' means any form of written communication including email and facsimile transmission provided that any email shall take effect only when received by the recipient.

1.2 The headings in these Conditions in 1.1 are for convenience only and shall not affect their interpretation.

1.3 Any reference to a statutory provision shall include any subordinate legislation made from time to time under that provision.

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

1.5 If any provision of these Conditions is held by any competent court, tribunal or authority to be invalid or unenforceable in whole or in part the validity of the remainder of the provision and all other remaining provisions of these Conditions shall not be affected thereby.

APPLICATION

1A.1 All business conducted by the Supplier with the Client, including all contracts, quotations or pre-contractual negotiations, shall be subject to these Conditions to the exclusion of any and all other terms and conditions unless otherwise expressly agreed in Writing by the duly authorised representatives of Client and Supplier and set out in the Contract. This exclusion of all other terms and conditions shall apply to exclude any other terms and conditions, including any standard or general terms or conditions referred to in any order or acknowledgement issued by the Client.

1A.2 Any and all statements, representations, advice or recommendations made or given by the Supplier during negotiations prior to the conclusion of the Contract are not binding unless expressly incorporated into the Contract in Writing and signed by both parties.

1A.3 Description of Contract

1A3.1 No Contract shall be formed until the Supplier confirms in Writing its acceptance of the Order from the Client. The Supplier does not offer nor give any guarantee of acceptance of Orders. Acceptance of Orders is subject to availability of the relevant Goods and/or specified Services.

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- 1A3.2 The Supplier will sell Goods and/or provide specified Services to the Client and the Client will pay the specified Price, in accordance with the Supplier's acceptance in clause 1A3.1 above.
- 1A3.3 The Contract shall constitute the entire agreement between the Supplier and the Client and shall supersede and extinguish all previous drafts, agreements, arrangements and understandings between the Supplier and the Client, whether written or oral, relating to its subject matter.

PROVISIONS APPLICABLE TO THE SPECIFIED SERVICE

2. Supply of the Specified Service

- 2.1 The Supplier shall provide the Specified Service to the Client subject to these Conditions. Any changes or additions to the Specified Service must be agreed in writing by the Supplier and the Client.
- 2.2 The Client shall at its own expense supply the Supplier with all necessary Documents or other materials, and all necessary data or other information relating to the Specified Service, within sufficient time to enable the Supplier to provide the Specified Service in accordance with the Contract. The Client shall ensure the accuracy of all Input Material.
- 2.3 The Client shall at its own expense retain duplicate copies of all Input Material and insure against its accidental loss or damage. The Supplier shall have no liability for any such loss or damage, however caused. All Output Material shall be at the sole risk of the Client from the time of delivery to or to the order of the Client.
- 2.4 The Specified Service shall be provided in accordance with the Specification Sheet and otherwise in accordance with the Supplier's current brochure or other published literature relating to the Specified Service from time to time, subject to these Conditions.
- 2.5 Further details about the Specified Service, and advice or recommendations about its provision or utilisation, which are not given in the Supplier's brochure or other promotional literature, may be made available on written request.
- 2.6 The Supplier may correct any typographical or other errors or omissions in any brochure, promotional literature, quotation or other document relating to the provision of the Specified Service without any liability to the Client.
- 2.7 The Supplier may at any time without notifying the Client make any changes to the Specified Service which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Specified Service.
- 2.8 Where the Supplier agrees to provide a Specified Service to the Client, the Supplier will not be liable for any Losses caused directly or indirectly by any delay in the provision of the Specified Service (even if caused by the negligence of the Supplier, its employees, servants or agents). Unless otherwise expressly agreed in writing, the Client shall not be entitled to cancel the Contract solely because of such delay,
- 2.9 The cost of any delays caused for reasons beyond the Supplier's control, including inclement weather, shall be charged, under the named item 'Standing Time', to the Client at the Supplier's Standard Charges.
- 2.10 Unless otherwise agreed in writing by the Supplier's authorised representative, all estimates assume that all work will be carried out in one continuous operation. The Supplier's standard working day is between the hours of 8.30am and 5.30pm (travel time to and from the Site within these hours) and the Supplier's standard working week is Monday to Friday, inclusive.

3. Obligations of the Client

- 3.1 The Client shall comply in all respects with all applicable laws and regulations (whether of the United Kingdom or elsewhere) at the Site. Without prejudice to the generality of the foregoing, the Client shall provide at site a safe environment in which the Supplier's personnel may provide the Specified Service and shall establish procedures under, and comply with, all requirements from time to time in force under the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1992 and the Workplaces (Health, Safety and Welfare) Regulations 1992. The Client shall indemnify the Supplier for any and all Losses suffered by the Supplier attributable to a breach of this paragraph 3.1.
- 3.2 The Client shall afford the Supplier's personnel such access to the Site as may be required by Supplier to provide the Specified Service. Further, the Client shall:
- 3.2.1 advise the Supplier and its personnel of any rules and regulations which are then in force at the Site (including without limitation, any Site operating code or policies from time to time in force);
- 3.2.2 make available such working space and facilities at the Site as the Supplier's personnel may reasonably require;
- 3.2.3 make available appropriate personnel to liaise with the Supplier's personnel;
- 3.2.4 ensure access to all necessary site locations is clear (and the Client shall be charged for the time taken by the Supplier to clear the site locations in excess of half an hour);
- 3.2.5 be responsible for accurately locating any existing services or structures, buried or otherwise before commencement of the Specified Services on Site. The Supplier shall take all reasonable care to avoid damage to any such services or structures but the Supplier shall not be liable for any such damage caused in performance of the Specified Services; and
- 3.2.6 secure and otherwise keep safe all and any property of the Supplier.
- 3.3 The Client shall provide the Client's Equipment free of charge at such times and locations as may be reasonably required or requested by the Supplier or its personnel.

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4. Rights in Input Material and Output Material

- 4.1 The property and any copyright or other intellectual property rights in:
- 4.1.1 any Input Material shall belong to the Client
- 4.1.2 any Output Material shall, unless otherwise agreed in writing between the Client and the Supplier, belong to the Supplier, subject only to the right of the Client to use the Output Material for the purpose of utilising the Specified Service.
- 4.2 Any Input Material or other information provided by the Client which is so designated by the Client and any Output Material shall be kept confidential by the Supplier, and all Output Material or other information provided by the Supplier which is so designated by the Supplier shall be kept confidential by the Client; but the foregoing shall not apply to any Documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.
- 4.3 The Client warrants that any Input Material and its use by the Supplier for the purpose of providing the Specified Service will not infringe the copyright or other rights of any third party, and the Client shall indemnify and hold the Supplier harmless against any loss, damages, costs, expenses or other claims arising from any such infringement.
- 4.4 Subject to paragraph 4.3, the Supplier warrants that any Output Material and its use by the Client for the purposes of utilising the Specified Service will not infringe the copyright or other rights of any third party, and the Supplier shall indemnify and hold the Client harmless against any loss, damages, costs, expenses or other claims arising from any such infringement.
- 4.5 The parties acknowledge that the Specified Service and all reports, data, information or documentation including without limitation all Output Material prepared by or on behalf of the Supplier are provided solely and exclusively for the benefit of the Client and for no other person and may be used only by the Client for the purposes for which they are provided and for no other purpose. The Client shall not reproduce or pass on any Output Material to any third party without the Supplier's prior written permission.
- 4.6 The Supplier shall, to the fullest extent permitted by law, have no responsibility or liability to any person other than the Client, for any use or reliance placed by any such person on the Specific Services or any reports, data, information or documentation including without limitation all Output Material provided by the Supplier. Without prejudice to the generality of the foregoing, and except as otherwise may be expressly agreed in writing, the Supplier shall have no responsibility or liability for the interpretation by the Client or for any interpretation, use or reliance placed by any other person on any reports, data, information or documentation including without limitation the Output Material provided by the Supplier and except as aforesaid the Client shall indemnify and hold the Supplier harmless against all Claims arising from any such interpretation use or reliance.

PROVISIONS APPLICABLE TO THE SALE OF GOODS

5. Basis of the sale

- 5.1 The Supplier shall sell and the Client shall purchase the Goods in accordance with any written quotation of the Supplier which is accepted by the Client, or any written order of the Client 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 and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Client.
- 5.2 The Supplier's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Supplier in Writing. In entering into the Contract the Client acknowledges that it does not rely on any such representations which are not so confirmed.
- 5.3 Any advice or recommendation given by the Supplier or its employees or agents to the Client or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Supplier is followed or acted upon entirely at the Client's own risk, and accordingly the Supplier shall not be liable for any such advice or recommendation which is not so confirmed.
- 5.4 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier relating to the Goods shall be subject to correction without any liability on the part of the Supplier.
- 5.5 The Client shall contact Supplier for suitable storage and maintenance instructions if Goods remain in, or are expected to remain in storage for a period exceeding four (4) weeks from delivery date pursuant to Section 7 below.
- 5.6 If Client fails to request storage instructions from Supplier within seven (7) days of the end of this four (4) week period and the Goods have yet to be commissioned regardless of reason; or fails to follow the Supplier's instructions wholly or in part for the Goods in storage or installed and for the period prior to commissioning, then the warranty (described in Section 13 below) shall immediately become null and void. In the event Client requires Supplier to visit site on matters relating to storage or maintenance of the Goods, Supplier shall provide authorised personnel at its published day rates.

6. Orders and specifications

- 6.1 No order for Goods submitted by the Client shall be deemed to be accepted by the Supplier unless and until confirmed in Writing by the Supplier's authorised representative.
- 6.2 The Client shall be responsible to the Supplier for ensuring the terms of any order (including any applicable specification, drawing or other information) submitted by the Client are true, complete and accurate, and for giving the Supplier all necessary information relating to the Goods within a sufficient time to enable the Supplier to perform the Contract in accordance with its terms.
- 6.3 The quantity, quality and description of and any specification for the Goods shall be those set out in the Supplier's quotation (if accepted by the Client) and the Client's order (if accepted by the Supplier).
- 6.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Supplier in accordance with any specification, data, information, design, drawing or instruction submitted by the Client, the Client shall indemnify the Supplier

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against all Claims awarded against or incurred by the Supplier in connection with or paid or agreed to be paid by the Supplier in settlement of any claim arising out of:-

- (i) infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from the Supplier's use of the Client's specification, data, information, design, drawing or instruction; or
- (ii) any impracticality, inefficiency or lack of safety or other defect in the Goods where such defect is due (whether in whole or in part) to faults or omissions in data, information, drawings, designs, instructions, or specifications of the Client.

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

6.6 The Supplier is not responsible for and shall have no liability in the case where parts or components to be supplied by its sub-suppliers become unavailable.

6.7 No order which has been accepted by the Supplier may be cancelled by the Client except with the agreement in Writing of the Supplier and on terms that the Client 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 or to be incurred by the Supplier as a result of cancellation.

7. Delivery

7.1 Delivery of the Goods shall be made by the Client collecting the Goods at the Supplier's premises at any time after the Supplier has notified the Client that the Goods are ready for collection or, if some other place for delivery is agreed in Writing by the Supplier, by the Supplier delivering the Goods to that place. Where the Supplier agrees to deliver the Goods otherwise than at the Supplier's premises, the Supplier shall be under no obligation under Section 32(2) of the Sale of Goods Act 1979.

7.2 Any dates quoted for delivery of the Goods are approximate only and the Supplier shall not be liable for any Losses caused by any delay in delivery of the Goods however caused nor will any delay entitle the Client to terminate or rescind the Contract unless such delay is attributable solely to the breach by the Supplier and exceeds ninety (90) days and provided that prior to any such termination or rescission the Client has given the Supplier not less than thirty (30) days' notice in Writing requiring the Supplier to complete its delivery obligations. Time for delivery shall not be of the essence of the Contract unless expressly agreed by the Supplier in Writing. The Goods may be delivered by the Supplier in advance of the quoted delivery date upon giving reasonable notice to the Client.

7.3 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 Client in respect of any one or more instalments shall not entitle the Client to treat the Contract as a whole as repudiated.

7.4 If the Supplier fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Supplier's reasonable control or the Client's fault, and the Supplier is accordingly liable to the Client, the Supplier's liability shall be limited to the excess (if any) of the cost to the Client (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

7.5 If the Client fails to take delivery of the Goods or fails to give the Supplier adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Client's reasonable control or by reason of the Supplier's fault) then, without prejudice to any other right or remedy available to the Supplier, the Supplier may:

- 7.5.1 issue its invoice in respect of the Goods as if they had been delivered;
- 7.5.2 store the Goods until actual delivery and charge the Client for the reasonable costs incurred (including insurance); or
- 7.5.3 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Client for the excess over the price under the Contract or charge the Client for any shortfall below the price under the Contract; or
- 7.5.4 suspend other deliveries of Goods

7.6 Save for return of Goods pursuant to Section 13 (Warranties and Liabilities) Goods shall not be returned to Supplier unless in the case of Supplier's standard Goods which Supplier has approved the return of in advance. All approved returns must be packaged to prevent damage, insured and returned prepaid. Returned Goods shall be subject to a 25% restocking charge.

8. Risk and property

8.1 Risk of damage to or loss of the Goods shall pass to the Client:

- 8.1.1 in the case of Goods to be delivered at the Supplier's premises, at the time when the Supplier notifies the Client that the Goods are available for collection; or
- 8.1.2 in the case of Goods to be delivered otherwise than at the Supplier's premises, at the time of delivery or, if the Client wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods;

and the Client shall insure the Goods against all loss or damage from such time of delivery.

8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Client until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and Specified Service to be provided under the Contract and all other goods agreed to be sold and services agreed to be provided by the Supplier to the Client for which payment is then due.

8.3 Until such time as the property in the Goods passes to the Client, the Client shall hold the Goods as the Supplier's fiduciary agent and bailee, and shall keep the Goods separate from those of the Client and third parties and properly stored, protected and insured and identified as the Supplier's property, but shall be entitled to resell or use the Goods in the ordinary course of its business provided the Client hereby agrees to the Supplier receiving any proceeds arising from the sale thereof.

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8.4 Until such time as the property in the Goods passes to the Client (and provided the Goods are still in existence and have not been resold), the Supplier shall be entitled at any time to require the Client to deliver up the Goods to the Supplier and, if the Client fails to do so forthwith, to enter upon any premises of the Client or any third party where the Goods are stored and repossess the Goods.

8.5 The Client 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 Client does so all monies owing by the Client to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.

9. Indemnity

9.1 If any claim is made against the Client that the Goods infringe or that their use or resale infringes the patent, copyright, design, trademark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any information, data, drawing, design, instruction or specification supplied by the Client, the Supplier shall indemnify the Client against all loss, damages, costs and expenses awarded against or incurred by the Client in connection with the claim, or paid or agreed to be paid by the Client in settlement of the claim, provided always that:

9.1.1 the Supplier is given full control of any proceedings or negotiations in connection with any such claim;

9.1.2 the Client shall give the Supplier all reasonable assistance for the purposes of any such proceedings or negotiations;

9.1.3 except pursuant to a final award, the Client shall not pay or accept any such claim, or compromise any such proceedings without the prior written consent of the Supplier ;

9.1.4 the Client shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Client may have in relation to such infringement, and this indemnity shall not apply to the extent that the Client recovers any sums under any such policy or cover (which the Client shall use its best endeavours to do);

9.1.5 the Supplier shall be entitled to the benefit of, and the Client shall accordingly account to the Supplier for, all damages and costs (if any) awarded in favour of the Client which are payable by, or agreed with the consent of the Client (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and

9.1.6 without prejudice to any duty of the Client at common law, the Supplier shall be entitled to require the Client to take such steps as the Supplier may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Supplier is liable to indemnify the Client under this paragraph or otherwise.

10. Export terms

10.1 In these Conditions '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.

10.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 10 shall (subject to any special terms agreed in writing between the Client and the Supplier) apply notwithstanding any other provision of these Conditions.

10.3 The Client shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

10.4 Unless otherwise agreed in Writing between the Client and the Supplier, the Goods shall be delivered FCA or EXW (as specified by the Supplier) and the Supplier shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

10.5 The Client shall be responsible for arranging for testing and inspection of the Goods at the Supplier's premises before shipment. The Supplier shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

10.6 Payment of all amounts due to the Supplier shall be made by irrevocable letter of credit opened by the Client in favour of the Supplier and confirmed by a bank acceptable to the Supplier or, if the Supplier has agreed in Writing on or before acceptance of the Client's order to waive this requirement, by acceptance by the Client and delivery to the Supplier of a bill of exchange drawn on the Client payable at sight to the order of the Supplier at such branch of the Supplier's nominated bank in England as may be specified in the bill of exchange.

PROVISIONS APPLICABLE TO THE SPECIFIED SERVICES AND THE SALE OF GOODS

11. Price

11.1 Unless otherwise agreed between the parties in Writing the Client shall pay the aggregate of:

(i) (if the Specified Service is being provided under the Contract) the Supplier's Standard Charges and any additional sums which are agreed between the Supplier and the Client for the provision of the Specified Service or which, in the Supplier's sole discretion are required as a result of the Client's instructions or lack of instructions, the inaccuracy of any Input Material or any other cause attributable to the Client; and

(ii) (if Goods are being supplied under the Contract) the price of the Goods which shall be the Supplier's quoted price or, where no price has been quoted (or a quoted price is no longer valid) the price listed in the Supplier's published price list current at the date of acceptance of the order.

The Supplier's Standard Charges and quoted prices are valid for 30 days only (or until earlier acceptance by the Client or earlier withdrawal by the Supplier before the Client's acceptance), after which time they may be altered by the Supplier without giving notice to the Client.

11.2 The Supplier reserves the right, by giving notice to the Client at any time before delivery, to increase the price of any Goods supplied under this Contract 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, alteration of duties, significant increase in the

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costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Client, or any delay caused by any instructions of the Client or failure of the Client to give the Supplier adequate information or instructions.

11.3 Except as otherwise stated under the terms of any quotation or in any price list of the Supplier, and unless otherwise agreed in Writing between the Client and the Supplier, all prices for Goods are given by the Supplier on an ex works basis, and where the Supplier agrees to deliver the Goods otherwise than at the Supplier's premises, the Client shall be liable to pay the Supplier's charges for transport, packaging, postage, insurance, documentation charges and other costs.

11.4 All charges quoted to the Client for the provision of the Specified Service or the price of the Goods are exclusive of any travel, accommodation, subsistence or other out-of-pocket expenses of the Supplier's employees, servants or agents (which where applicable the Client shall pay to the Supplier at cost) and shall exclude any costs, charges or taxes relating to storage, loading, carriage, unloading, delivery and insurance of any Goods or any applicable sales tax, value added tax licence fees, duties, local taxes or additional costs of such nature, for which the Client shall be additionally liable to pay the Supplier at the applicable rate from time to time.

12. Terms of payment

12.1 Goods

12.1.1 Subject to any special terms agreed in Writing between the Client and the Supplier and if a credit arrangement has been approved by the Supplier, the Supplier shall be entitled to invoice the Client for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Client or the Client wrongfully fails to take delivery of the Goods, in which event the Supplier shall be entitled to invoice the Client for the price at any time after the Supplier has notified the Client that the Goods are ready for collection or (as the case may be) the Supplier has tendered delivery of the Goods.

12.1.2 Provided that a credit arrangement has been approved by the Supplier, the Client shall pay the price of the Goods (together with any applicable Value Added Tax and less any discount to which the Buyer is entitled but without any set-off, counterclaim or any other deduction) within 30 days of the date of the Supplier's invoice, and the Supplier shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Client.

12.1.3 Where no credit arrangement has been approved by the Supplier prior to delivery the client will be required to make a proforma payment to the Supplier in the amount, form and currency specified by the Supplier.

12.2 Specified Service

The Supplier shall be entitled to invoice the Client on or at any time after completion of the specified service, or following the end of each month in which the Specified Service is to be provided or at other times agreed with the Client. The Supplier's Standard Charges and any additional sums payable shall be paid by the Client (together with any applicable Value Added Tax, and without any set-off, counterclaim or other deduction) within 30 days of the date of the Supplier's invoice.

12.2 Payment shall be in sterling. The time of payment shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

12.3 If the Client 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:

12.3.1 terminate the Contract and suspend any further deliveries of the Goods or performance of the Specified Service to the Client;

12.3.2 the immediate payment of all payments outstanding in respect of Goods or Specified Service and of any other goods, works or services under any other contract notwithstanding the fact that the date for payment may not yet have fallen due;

12.3.3 appropriate any payment made by the Client to such of the Goods or Specified Service (or the goods or services supplied under any other contract between the Client and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Client);

12.3.4 charge the Client interest (both before and after any judgment) on the amount unpaid, at the rate of 4 per cent per annum above the Bank of Scotland Bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); and

12.3.5 charge the Client the cost of recovery of any unpaid amount including any legal costs, disbursements and bank charges incurred.

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13. Warranties and liability

Goods

- 13.1 Subject to the conditions set out below the Supplier warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of their initial use or 12 months from delivery, whichever is the first to expire.
- 13.2 The above warranty is given by the Supplier subject to the following conditions:
- 13.2.1 Where the Goods fail due to faulty materials or workmanship (and the Goods remain within the warranty period specified in clause 13.1 above), the Client shall (at the Client's expense) return the Goods to the Supplier's address as set out in the dispatch documentation. The Supplier shall inspect the Goods and acceptance of liability to replace or repair (the decision to replace or repair being at the Supplier's sole discretion) the Goods shall be subject to the Supplier discovering fault. If the Client requires on site repairs, the Client shall be responsible for all costs and expenses incurred by the Supplier (including subsistence expenses, travel expenses and travel time costs (travel time costs to be charged at the Supplier's standard rate)), except where the Goods have been commissioned by one of the Supplier's Engineers in which case labour costs whilst carryout the actual repair/inspection on site will not be charged.
- 13.2.2 The Supplier shall not be liable under the warranty in clause 13.1. above to carry out any repairs or to replace Goods where the Goods have suffered damage as a result of repairs carried out or modifications made to the Goods by the Client or any other third party.
- 13.2.3 The Supplier shall be under no liability in respect of any defect in the Goods arising from any information, data, drawing, design, instruction or specification supplied by the Client;
- 13.2.4 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, acts, omissions or negligence of Client or those for whom Client is responsible, abnormal working conditions, failure to follow the Supplier's instructions (whether oral or in Writing), improper installation (other than by the Supplier) misuse or alteration or repair of the Goods without the Supplier's approval;
- 13.2.5 The Supplier shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment or if the Client is otherwise in breach of this Contract or any other contract with the Supplier;
- 13.2.6 The above warranty does not extend to parts, materials or equipment (including Output Material) not manufactured by the Supplier, in respect of which the Client shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Supplier.
- 13.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 13.4 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Client are not affected by these Conditions.
- 13.5 Where the Supplier is not the manufacturer of the Goods, the Supplier will endeavour, where applicable and upon written request, to transfer to the Client the benefit of any warranty or guarantee given to the Supplier.

Specified Service

- 13.6 The Supplier warrants to the Client that the Specified Service will be provided using reasonable care and skill by suitably qualified personnel and, as far as reasonably possible, in accordance with the Specification and at the intervals and within the times referred to in the Specification Sheet.
- 13.7 The Supplier's liability arising out of or in connection with the Specified Services shall be limited to re-performing at its expense any Specified Services that are deficient because of the Supplier's failure to perform the Specified Services in accordance with the standard of performance specified in paragraph 13.3 and provided the Client gives written notice of the breach complained of to the Supplier within a reasonable time not to exceed thirty (30) days after discovery thereof, but in any event within twelve (12) months from the date of performance of the Specified Service concerned.
- 13.8 Each Party agrees that it shall have no remedies in respect of any misrepresentation or warranty (whether made innocently or negligently) that is not expressly set out in the Contract. No Party shall have any claim for innocent or negligent misrepresentation based upon any statement in the Contract.
- 13.9 Not used
- 13.10 The Supplier shall not be liable for a breach of any warranty or warranties, whether provided by the Contract, statute, the general law or otherwise, in respect of any Goods sold or any Specified Service provided, unless the Client gives written notice of the breach complained of within a reasonable time not to exceed thirty (30) days of the time the Client discovers or ought to have discovered such breach and the Supplier is given a reasonable opportunity of remedying the breach.
- 13.11 Provided that the Supplier complies with paragraphs 13.2.1 or 13.7 (as the case may be), it shall have no further liability for breach of any warranty or warranties whatsoever and howsoever arising in respect of the Goods or any Specified Services provided.
- 13.12 The Supplier shall have no liability to the Client for any Losses arising from any Input Material or instructions supplied by the Client which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Client or those for whom the Client is responsible.
- 13.13 The Supplier shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, which arise out of or in connection with the supply of the Goods or their use or resale by the Client or the provision of the Specified Service or their use by the Client for any:

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- 13.13.1 third party claims for financial loss or expense;
 - 13.13.2 loss of profit or anticipated profits; ;
 - 13.13.3 loss of bargain;
 - 13.13.4 loss of revenue;
 - 13.13.5 reduction in turnover;
 - 13.13.6 business interruption or downtime costs;
 - 13.13.7 loss of contract or business opportunity;
 - 13.13.8 claims of customers or other contractors of the Client; or
 - 13.13.9 any special, indirect or consequential loss or damage of any nature whatsoever.
- 13.13A Nothing in these terms shall be taken as excluding or limiting the Supplier's liability for; (a) death or personal injury arising as a result of its negligence, (b) fraud or fraudulent misrepresentation, or (c) wilful default or deliberate breach of contract or (d) anything else that cannot lawfully be limited or excluded.
- 13.14 Without prejudice to clauses 13.13 and 13.13A the Supplier's total liability arising under or in connection with the Contract including liability for all Claims, and causes of action of any kind and description howsoever and whatsoever arising from tort (including negligence), breach of contract, breach of statutory duty or otherwise shall not in the aggregate exceed the amount specified in the Contract or if no amount is specified shall not exceed the Price.
- 13.15 Unless otherwise agreed in Writing, the Client shall indemnify and hold the Supplier harmless against any loss, cost, expense, damage or injury howsoever caused (including by negligence) to the Client's employees, servants or agents and/or property of the Client or of its employees, servants or agents arising out of or related to of the Contract.
- 13.16 The Supplier shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Specified Service and/or the Goods, if the delay or failure was due to any cause beyond the Supplier's reasonable control. Any such failure or delay shall entitle either party to terminate the Contract if it persists for more than three months but the Client shall remain liable to pay for Goods delivered and/or any provision of the Specified Service prior to the date of such termination. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Supplier's reasonable control:
- 13.17
- 13.17.1 Act of God, explosion, flood, tempest, fire or accident;
 - 13.17.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 13.17.3 treaties, directives, acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority or other body or competent authority;
 - 13.17.4 import or export regulations or embargoes;
 - 13.17.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Supplier or of a third party);
 - 13.17.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 13.17.7 power failure or breakdown in machinery.
- 14. Insolvency of client**
- 14.1 This clause applies if:
- 14.1.1 the Client makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 - 14.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client; or
 - 14.1.3 the Client ceases, or threatens to cease, to carry on business; or
 - 14.1.4 the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.
- 14.2 If this clause applies 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 or performance under the Contract without any liability to the Client, and if the Goods have been delivered or the Specified Service provided (either in whole or in part) but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 15. General**
- 15.1 The Supplier may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Supplier.
- 15.2 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.
- 15.3 No waiver by the Supplier of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 15.4 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.

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- 15.5 The Contract and all obligations arising out of or relating to the Contract shall be governed by and construed in accordance with the laws of England and the Client agrees to submit to the exclusive jurisdiction of the English courts.
- 15.6 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Client and the Supplier.
- 15.7 The Client hereby agrees that, during the term of the Contract and for a period of twelve (12) months after expiry or termination howsoever caused, he will not solicit the Supplier's staff who are known by the Client to have been employed or engaged in the performance of the Contract. For the purposes of this clause, 'solicit' means a direct or indirect attempt to induce such person to take an engagement with such party as an employee, director, sub-contractor or independent contractor provided that this clause shall not apply to any engagement as a result of a general advertisement or recruitment campaign.
- 15.8 Any notice required to be given by either party under the Contract shall be delivered or sent by pre-paid first class recorded delivery letter or facsimile addressed to the registered office of the party to be served or to such other place as may be designated by the party for the purpose of service and shall be deemed to have been served in the case of a notice delivered by hand, when delivered, in the case of a letter, forty-eight (48) hours after the time of posting, in the case of facsimile when despatched.
- 15.9 The Client shall not assign, transfer or sub-contract the Contract or any benefit, interest, right or obligation under the Contract, without the prior agreement of the Supplier in Writing.

16. Anti-Bribery

- 16.1 The Client shall:
- 16.1.1 comply and shall procure that its personnel comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
- 16.1.2 Not engage in any activity, practice or conduct which would constitute an offence under sections 1,2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 16.1.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure its compliance with paragraphs 16.1.1 and 16.1.2 and enforce them where appropriate; promptly report to the Supplier any request or demand for any undue financial or other advantage of any kind received by the Client in connection with the performance of the Contract; and
- 16.1.4 immediately notify the Supplier in writing if a foreign public official becomes an officer or employee of the Client or acquires a direct or indirect interest in the Client (and the Client warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of the Contract).
- 16.2 The Client shall ensure that any person associated with the Client who is performing services in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Client in paragraph 16.

17. Forced Labour

- 17.1 The Client shall:
- 17.1.1 comply, and shall procure that each of its suppliers and subcontractors and its and their employees, directors, officers, representatives, servants and agents shall comply, with all applicable laws, statutes regulations and codes relating to slavery, servitude, forced or compulsory labour and human trafficking including the Modern Slavery Act 2015;
- 17.1.2 undertake not to purchase any resource, materials or products from producers, suppliers or manufacturers using forced or compulsory labour in its operations or practices;
- 17.1.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures to ensure its compliance with clause 17.1.1 and 17.1.2 and will enforce them where appropriate;
- 17.1.4 immediately notify the Supplier in writing if it becomes aware of any breach or alleged breach of this clause within its supply chain (and the Client warrants that has not been convicted of any offence involving slavery and human trafficking and, having made reasonable enquiries, to the best of its knowledge none of its suppliers or subcontractors or its or their employees, directors, officers, representatives, servants and agents or direct or indirect owners at the date of the Contract have been or are the subject or any investigation, enquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding an offence or alleged offence of or in connection with slavery and human trafficking),
- 17.1.5 The Client shall ensure that any person associated with the Client who is performing services or work in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Client in this clause 17.