

## Terms and Conditions of Sale and Supply (General terms)

### 1 Interpretation

The following definitions and rules of interpretation apply in these Terms.

#### 1.1 Definitions:

**Business Day:** a day other than a Saturday,

Sunday or public holiday in England, when banks in London are open for business.

**Charges:** the total amount of the price for the Goods and the charges for the Services payable by the Customer to the Supplier in connection with the Contract as specified in the Quotation.

**Contract:** the contract between the Supplier and the Customer for the supply of Goods and/or Services, which is comprised of the Quotation and these Terms. If there is any conflict or ambiguity between the content of the Quotation and the provisions of these Terms, the former shall take precedence over the latter.

**Customer:** the person or firm specified in the Quotation who purchases the Goods and/or Services from the Supplier.

**Data Protection Legislation:** all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK).

**Delivery Location:** has the meaning given in clause 5.2.

**Force Majeure Event:** has the meaning given to it in clause 19.1.

**Goods:** the goods (or any part of them) set out in the Quotation.

**Goods Specification:** any specification for the Goods, including any relevant plans or drawings, provided by the Customer to the Supplier and agreed in writing between the Customer and the Supplier.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring 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.

**Quotation:** the quotation provided by the Supplier to the Customer based on the Goods and/or Services ordered by the Customer and based on the Supplier's current price list (which may be changed by the Supplier from time to time in its absolute discretion).

**Services:** the services, including any deliverables, supplied by the Supplier to the Customer as set out in the Service Specification.

**Service Specification:** any description or specification of the Services to be provided to the Customer by the Supplier as set out in the Quotation or as otherwise agreed in writing between the Customer and the Supplier.

**Start Date:** has the meaning given in clause 2.2.

**Supplier:** VG&P LTD registered in England and Wales with company number 08949251.

**Supplier Materials:** all artwork, data, databases, designs, documents, drawings, prototypes, samples, works and other materials of any kind whatsoever owner or controlled by the Supplier before the Start Date and provided by the Supplier to the Customer in connection with a Quotation or otherwise in connection with the Contract.

**Terms:** these general terms and conditions as amended from time to time in accordance with clause 19.9.

#### 1.2 Interpretation:

(a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

(b) A reference to a party includes its personal representatives, successors and permitted assigns.

(c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted.

A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

(d) Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(e) A reference to **writing** or **written** includes fax and email.

### 2 Basis of contract

2.1 The submission of a signed copy of the Quotation by the Customer to the Supplier shall constitute an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Terms.

2.2 The offer shall only be deemed accepted by the Supplier when the Supplier has received the copy of the Quotation signed by the Customer and communicated its acceptance of the offer in writing to the Customer, at which point and on which date the Contract shall come into existence (**Start Date**).

2.3 The Supplier shall not commence any work under the Contract until all specifications and other information required from the Customer has been received in writing by the Supplier.

2.4 Any drawings, descriptive matter, illustrations, samples, specifications, technical data or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract, shall not have any contractual force and particular the Customer expressly acknowledges and agrees that the Supplier's products are always subject to improvements and modifications and accordingly slight variations may occur in relation to colour finishes and other similar specifications relating to the Goods and/or the Services.

2.5 These Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 All of these Terms shall apply to the supply of both Goods and Services except where application to one or the other is specified.

### 3 Quotations

3.1 Any Quotation given by the Supplier shall not constitute an offer.

3.2 A Quotation shall be valid only when made in writing by an authorised staff member of the Supplier and clearly marked 'Quotation'.

3.3 A Quotation shall remain valid for 30 days from the date stated on the Quotation, unless withdrawn earlier by the Supplier (whether orally or in writing), after which the Supplier may update the Quotation to take account of changes to its current price list, changes to costs and expenses and/or such other commercial or economic conditions as the Supplier considers relevant to the Quotation.

### 4 Goods

4.1 The Goods shall be as described the Goods Specification and the Customer shall ensure that the Goods Specification submitted to the Supplier is complete and accurate.

4.2 The Customer shall indemnify the Supplier against all

liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Goods Specification. This clause 4.2 shall survive termination of the Contract.

4.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

### 5 Delivery of Goods

5.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date delivery, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods, special storage instructions (if any) and, if the delivery is by instalments, the outstanding balance of Goods remaining to be delivered.

5.2 The Supplier shall deliver the Goods to the location set out in the Quotation or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.

5.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

5.4 Any dates quoted for delivery of the Goods are approximate only (based upon the best available information concerning factory lead times and transportation schedules), and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event 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.

5.5 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 or the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

5.6 If the Customer fails to take or accept delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

(b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

5.7 If ten Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

5.8 Any claims for non-delivery, under-delivery or damage to Goods in transit must be notified in writing to the Supplier and the carrier within three working days of delivery (and in the case of non-delivery, within 10 working days of the Customer becoming aware of non-delivery).

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5.9 Where the Customer requests delayed delivery of some or all of the Goods ordered beyond the delivery date that was originally set out in the Quotation, the Goods shall be held by the Supplier free of charge for 48 hours. After that period, a warehousing fee shall be payable by the Customer to the Supplier at a rate of not less than 2% per month of the Charges for the Goods held (the final amount of the warehousing fee shall be determined by the Supplier in its absolute discretion). Nothing in this clause shall affect the Customer's liability to pay the Charges for the Goods and/or for the passing of the risk in the Goods to the Customer.

5.10 Where the customer fails to make payment of the Charges in accordance with the Contract in respect of some or all of the Goods ordered, the Goods shall be held by the Supplier free of charge for 48 hours. After that period, a warehousing fee shall be payable by the Customer to the Supplier at a rate of not less than 2% per month of the Charges for the Goods held (the final amount of the warehousing fee shall be determined by the Supplier in its absolute discretion). Nothing in this clause shall affect the Customer's liability to pay the Charges for the Goods and/or for the passing of the risk in the Goods to the Customer.

5.11 Any goods held at our premises which have been invoiced to you and are to be called off at a later date shall be paid for in full in accordance with the terms stated on our invoice.

5.12 Title to such goods will pass to you upon receipt of full payment of the relevant invoice. Thereafter, the goods will be held at your risk.

5.13 All payments made in relation to such goods shall be made without any deduction for contra, set-off or counterclaim, unless previously agreed by us in writing.

### 6 Quality of Goods

6.1 The Supplier warrants that on delivery, and for a period of 24 months from the date of delivery (**warranty period**), the Goods shall:

- (a) conform in all material respects with their description and any applicable Goods Specification; and
- (b) be free from material defects in design, material and workmanship.

6.2 Subject to clause 6.3, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full provided that:

- (a) the Customer is the original purchaser who purchased the Goods new from the Supplier;
- (b) the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;
- (c) the Customer gives the Supplier a reasonable opportunity to examine such Goods; and
- (d) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost.

6.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 6.1 if:

- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 6.2;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, use or maintenance of the Goods or (if there are none) good trade practice;
- (c) the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;
- (d) the defect arises as a result of: natural variations in wood grain or figure or the presence of character marks; changes in surface finishes due to aging or exposure to light; any other of damage caused by prolonged exposure to direct sunlight; marks, scars, or wrinkles occurring naturally in leather; damage, marking, or staining of veneer surfaces due to contact with rubber or similar compounds; damage from sharp objects or imprinting from writing instruments; discoloration due to soiling, stains, or dye transfer from clothing including denim; exposure to extreme environmental conditions; and/or improper

storage.

- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (f) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (g) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

6.4 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.

6.5 These Terms shall apply to any repaired or replacement Goods supplied by the Supplier.

### 7 Title and Risk

7.1 The risk in the Goods shall pass to the Customer after the goods have been dispatched by the Supplier.

7.2 Title to the Goods shall not pass to the Customer until the earlier of:

- (a) the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
- (b) the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 7.4.

7.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.2(b) to clause 14.2(d); and
- (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

- (a) it does so as principal and not as the Supplier's agent; and
- (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 14.2(b) to clause 14.2(d), then, without limiting any other right or remedy the Supplier may have:

- (a) the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
- (b) the Supplier may at any time:
  - (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
  - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

### 8 Supply of Services

8.1 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects the Customer shall ensure that the Service Specification submitted to the Supplier is complete and accurate.

8.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Services Specification, but any such dates shall be estimates only and time shall not be of the essence for

the performance of the Services.

8.3 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

8.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

### 9 Change requests

9.1 The Supplier shall not be obliged to accept any changes to the Contract after the Start Date.

9.2 Without prejudice to clause 9.1, the Supplier may accept changes to the Contract provided that: the change request is submitted by the Customer in writing and received a reasonable period of time in advance of the requested implementation date for the change; the change may be subject to additional Charges for materials, labours and administrative and other expenses to be determined by the Supplier in its absolute discretion; and changes relating to the quantity or design of non-standard products or relating to special orders may affect the Charges of all Goods and/or Services ordered.

### 10 Cancellations and returns

10.1 All requests for cancellation and/or return of any Goods and/or Services must be received by the Supplier in writing with three working days of the Start Date.

10.2 The Supplier may in its absolute discretion refuse or agree to any request for cancellation and/or return of any Goods and/or Services and the Customer expressly acknowledges and agrees that no request for cancellation and/or return of any Goods and/or Services shall be effective until accepted in writing by the Supplier.

10.3 The Customer may not cancel and/or return any Goods and/or Services that are or relate to special items manufactured to bespoke non-standard designs after works has commenced on such items.

10.4 The Customer shall be liable to pay a cancellation charge, restocking charge, handling charge and/or delivery charge of up to the total amount of the Charges for any Goods and/or Services cancelled and/or returned (in whole or in part).

10.5 The Customer shall return any returned Goods to the Supplier's warehouse (or such other location as the Supplier may specify in writing) in re-saleable condition and in original packaging.

### 11 Customer's obligations

11.1 The Customer shall:

- (a) ensure that the content of the Quotation is complete and accurate before submitting a signed copy of the Quotation to the Supplier;
- (b) ensure that information it provides in any Service Specification and/or any Goods Specification are complete and accurate before submission to the Supplier;
- (c) co-operate with the Supplier in all matters relating to the Services;
- (d) 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 to provide the Services;
- (e) 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 complete and accurate in all material respects; and
- (f) comply with any additional obligations as set out in the Quotation, the Service Specification and the Goods Specification.

11.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services

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until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations; (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 11.2; and (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

**12 Charges and payment**

- 12.1 All payments payable by the Customer to the Supplier in connection with the Contract shall be payable directly to the Supplier to such account details as it may specify in writing from time to time.
- 12.2 The price for Goods:
- (a) shall be the price set out in the Quotation unless the parties expressly agree otherwise in writing in advance; and
  - (b) shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Customer.
- 12.3 The charges for Services shall be calculated on a time and materials basis:
- (a) the charges shall be calculated in accordance with the Supplier's daily fee rates, as set out in it's the Quotation or as otherwise expressly agreed between the parties in writing in advance; and
  - (b) the Supplier's daily fee rates for each individual person are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days.
- 12.4 The Supplier shall invoice the Customer for 50% of the Charges in advance and for the remaining 50% of the Charges on or at any time after the delivery of the Goods and/or the Services.
- 12.5 Without prejudice to clause 12.4, whether the Supplier has agreed to fast delivery (i.e. within two weeks), 100% of the Charges shall be payable in advance.
- 12.6 The Customer shall pay each invoice submitted by the Supplier:
- (a) within 30 days; and
  - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract (regardless of delays relating to transportation, shipping or delivery).
- 12.7 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 12.8 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 17 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 12.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 12.9 The Customer shall indemnify the Supplier against all expenses and costs incurred in connection with the recovery of all overdue amounts under the Contract (including the Charges and any interest, storage, transportation and/or handling costs). Sections 20 (2) and 32 of the Sale of Goods Act 1979 shall not apply to the Contract.
- 12.10 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). The purchase orders you place are divisible. Where goods and/or services are delivered or completed in

instalments, each such instalment:

- 12.11 (a) shall be deemed to be the subject of a separate contract; and (b) shall be invoiced separately and payable in accordance with the terms set out in that invoice.
- 12.12 Payment of each invoice shall be made in full, without set-off, deduction or counterclaim, regardless of any alleged defect or delay in delivery or performance of any other instalment.
- 12.13 You shall not be entitled to withhold payment of any amount payable under any contract with VG&P Ltd by reason of any set-off or counterclaim unless such deduction has been previously agreed to in writing by VG&P Ltd.

**13 Intellectual property rights**

- 13.1 All Intellectual Property Rights in the Supplier Materials shall remain the exclusively property of the Supplier.
- 13.2 Unless the Quotation provides otherwise or unless the parties agree otherwise in writing:
- (a) All Intellectual Property Rights in the Goods and all Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
  - (b) 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.

**14 Data protection and data processing**

- 14.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 14, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or **Domestic UK Law**; and Domestic UK Law means any Data Protection Legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation.
- 14.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). Without prejudice to the generality of clause 14.1, the
- 14.3 Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to the Supplier for the duration and purposes of the Contract.
- 14.4 Without prejudice to the generality of clause 14.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- (a) process that Personal Data only on the written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
  - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality,

integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it); (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and (d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

- (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
  - (ii) the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
  - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
  - (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - (f) notify the Customer without undue delay on becoming aware of a Personal Data breach;
  - (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
  - (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 14.
- 14.5 Either party may, at any time on not less than 30 days' notice, revise this clause 14 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

**15 Confidentiality**

- 15.1 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 (**Confidential Information**), except as permitted by clause 15.2.
- 15.2 Each party may disclose the other party's Confidential Information:
- (a) to its employees, officers, representatives, subcontractors or advisers 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, officers, representatives, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.3 Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under the Contract.
- 15.4 Without prejudice to the generality of clause 15.3, the Customer expressly acknowledges and agrees that the Supplier Materials shall constitute Confidential Information and as such the Client expressly acknowledges and agrees that it shall not disclose to any third party any artwork, data, databases, designs, documents, drawings, prototypes, samples, works or other materials of any kind whatsoever disclosed by the Supplier to the Customer in connection with any Quotation and/or otherwise in connection with the Contract.

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### 16 Limitation of liability

- 16.1 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence;
  - (b) fraud or fraudulent misrepresentation; and
  - (c) 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 (title and quiet possession).
- 16.2 Subject to clause 16.1, the Supplier's total liability to the Customer shall not exceed the amount paid by the Customer to the Supplier under the Contract. The Supplier's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract.
- 16.3 Subject to clause 16.1, the following types of loss are wholly excluded by the parties:
- (a) Loss of profits.
  - (b) Loss of sales or business.
  - (c) Loss of agreements or contracts.
  - (d) Loss of anticipated savings.
  - (e) Loss of use or corruption of software, data or information.
  - (f) Loss of or damage to goodwill.
  - (g) Indirect or consequential loss.
- 16.4 The Supplier has given commitments as to compliance of the Goods and Services with relevant specifications in clause 6 clause 8. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from these Terms.
- 16.5 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 16.6 his clause 16 shall survive termination of the Contract.

### 17 Termination

- 17.1 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract by giving the Customer not less than 30 days' written notice.
- 17.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;
  - (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 17.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the

Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

- 17.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.2(b) to clause 14.2(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

### 18 Consequences of termination

- 18.1 On termination of the Contract for whatever reason:
- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
  - (b) the Customer shall return any/all supplier materials and any/all Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 18.2 Termination of the Contract shall not affect any rights, remedies, obligations and 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 the Contract which existed at or before the date of termination.
- 18.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

### 19 General

- 19.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 19.2 **Assignment and other dealings.** 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. 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.
- 19.3 **Notices.** Any notice given to a party under or in connection with these Terms 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 fax or email to its main fax number or email address. Any notice 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; and if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. 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.
- 19.4 **Severance.** 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.

- 19.5 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 19.6 **No partnership or agency.** 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.
- 19.7 **Entire agreement.** The 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 (including any other terms and/or conditions that the Customer may seek to put in place instead of or in addition to the Contract). Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract.
- 19.8 **Third parties rights.** 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.
- 19.9 **Variation.** Except as set out in these Terms, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 19.10 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 19.11 **Jurisdiction.** 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 the Contract or its subject matter or formation.