

Parkside Flexibles (Europe) Ltd
Standard Terms of Supply 2023

The Customer's attention is particularly drawn to the provisions of clause 19.

1. INTERPRETATION

- 1.1 Definitions. In these Conditions, the following definitions apply:
"Business Day"; a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
"Commencement Date"; has the meaning set out in clause 2.3.
"Conditions"; these terms and conditions as amended from time to time in accordance with clause 24.8.
"Contract"; the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.
"Customer"; the person or firm who purchases the Goods and/or Services from the Supplier.
"Deliverables"; the deliverables set out in the Order.
"Delivery Location"; has the meaning set out in clause 8.2.
"Force Majeure Event"; has the meaning given to it in clause 23.1.
"Goods"; the goods (or any part of them) set out in the Order.
"Goods Specification"; any specification for the Goods, including any relevant plans or drawings that are agreed in writing by the Customer and the Supplier.
"Intellectual Property Rights"; patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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
"Order"; the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, as the case may be.
"Services"; the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification below.
"Service Specification"; the description or specification for the Services provided in writing by the Supplier to the Customer.
"Supplier"; Parkside Flexibles (Europe) Limited registered in England and Wales with company number 05325366.
"Supplier Materials"; has the meaning set out in clause 13.1(f).
"UK GDPR"; has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

- 1.2 "Construction". In these Conditions, the following rules apply:
(a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); a reference to a party includes its successors or permitted assigns;
(b) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted.
(c) A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
(d) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
(e) a reference to writing or written includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1 All prices quoted by the Supplier are based upon these Conditions and reflect the limitations upon the Supplier's liability which are contained herein. Should any Customer wish to contract with the Supplier otherwise than on the terms of these Conditions, special arrangements can be made in writing and signed by a Director of the Supplier.
2.2 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
2.3 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order (or an Order acknowledgement) at which point and on which date the Contract shall come into existence ("Commencement Date"). All prior correspondence or oral communications are to be regarded as superseded and not forming part of the Contract
2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.
2.5 Any samples, drawings, specifications, illustrations, descriptive matter, photographs, dimensions, weights, performance figures, price lists, advertisements, or other technical information 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, whether or not supplied with a quotation or Order, 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 or have any contractual force. The Seller offers its designs for the Customer's approval and accepts no responsibility for the fulfillment of any special requirements which the Customer may be bound to observe or fulfil unless expressly agreed in writing by the Supplier and signed by a Director of the Supplier. These Conditions 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.
2.7 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 7 calendar days from its date of issue.
2.8 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
2.9 In the event that the Supplier and the Customer have entered into a Non-Disclosure Agreement and the terms of the Non-Disclosure Agreement conflict with these Conditions, the confidentiality provisions and any indemnity provisions in favour of the Supplier contained in the Non-Disclosure Agreement shall prevail whilst they are valid and subsisting

3. GOODS

- 3.1 The Goods are described in the Goods Specification.
3.2 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 and other reasonable professional costs and expenses) suffered or incurred by the Supplier 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 3.2 shall survive termination of the Contract.
3.3 The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

4. HEALTH AND SAFETY

- 4.1 Where the Goods are supplied to the Customer's specification (or any Goods Specification) or design, the Customer shall be responsible for ensuring that, so far as is reasonably practicable, the Goods are so designed as to be safe and without risk to health when properly used and that such testing and examination is carried out as may be necessary for ensuring that the Goods are safely designed and that adequate information will be available in connection with the use of the Goods in relation to the use for which they are designed and about any conditions necessary to ensure that when put to that use, the Goods will be safe and without risk to health.
4.2 The Customer shall indemnify the Supplier against any liabilities, costs, expenses, claims, demands, actions damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in this regard or otherwise arising out of any failure on the part of the Customer to carry out the responsibilities as detailed in this clause 4 and in addition for all costs and expenses incurred by the Supplier in dealing with any such claims and rectifying any defects in the Goods.

5. CONTACT WITH DELICATE SUBSTANCES

- 5.1 Without prejudice to any other obligations imposed upon the Customer by these Conditions, where the Goods supplied consist of containers, wrappers or other articles intended for use in connection with any food, drug or substance of a sensitive volatile or delicate nature, the Customer shall satisfy itself that such food, drug or other substances is not or is not likely to be affected by any material used by the Supplier in the manufacture or printing of such containers, wrappers or other articles and the Customer shall indemnify and keep indemnified the Supplier from and against all liability to third parties in respect of any claim that any such food, drug or substance has been adversely affected and caused the third party loss, damage or expense.

6. MATERIALS

- 6.1 All material produced in fulfillment of an Order remains the property of the Supplier until paid for by the Customer, unless expressly agreed in writing by the Customer that such items are provided free of charge. For the avoidance of doubt, irrespective of payment, all origination work, artwork, stepped files, ink drawdowns, printing plates and related items in the provision of the Goods and/or Services shall remain the sole ownership and property of the Supplier.
6.2 All intellectual property rights in designs originated by the Supplier belong to the Supplier unless expressly assigned in writing. If the Customer is provided with copies of origination artwork, the Customer will not provide them to any other party unless expressly permitted by the Supplier. Printing cylinders produced by the Supplier shall remain the exclusive property of the Supplier irrespective of whether a separate charge for this work is made or not. Unless otherwise agreed in writing, the Supplier may at its complete discretion efface these items upon completion of the Contract. In the event that the Supplier at the request of the Customer retains any such items, then the Customer shall pay to the Supplier such storage charges as agreed from time to time.
6.3 In the event that the Customer provides some or all of the substrate, plates or materials to be used by the Supplier in the manufacture of the Goods and/or provision of the Services, the Supplier may, at its sole and complete discretion, eject any substrate, plates or materials it considers inappropriate to use in the manufacture of the Goods and/or provision of the Services. Any extra expense incurred by the Supplier in procuring appropriate substrate, plates or materials shall be added to the price charged for such Goods and/or Services, pursuant to clause 14 hereto.
6.4 All such substrate, plates, materials and property of whatsoever nature held by the Supplier on behalf of the Customer shall be held at the Customer's risk and expense and the Customer shall insure the same against all risks whilst they are in the Supplier's possession.

7. VARIATION OF SPECIFICATION

- 7.1 The Supplier reserves the right, where reasonable to do so, to substitute other components or materials of equivalent strength and quality when the components or materials specified are not readily available. The Customer shall accept the supply of such quantity of the Goods (whether more or less) as reasonable approximates to the stipulated amount of the Customer's order. Unless agreed otherwise in a supply agreement signed by both parties, margins of 10% shall be permitted for over- or shortages - the same to be charged or deducted as appropriate by the Supplier on a pro rata basis, and in such circumstances, the Customer shall not be entitled to reject to the Goods if the Supplier delivers up to an including such aforementioned thresholds.

8. DELIVERY AND STORAGE

- 8.1 The Supplier shall ensure that:
(a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

- (b) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.
8.2 The Supplier shall deliver the Goods to the location set out in the Order 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. Such delivery shall be by any method of transportation regarded as suitable by the Supplier and in the case of export outside the UK delivery will be as agreed.
8.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location, by either the Supplier, its courier or third party transporter engaged for the purposes of facilitating delivery.
8.4 Any delay in delivery of the Goods is approximate only, and the time of delivery is not of the essence. The Supplier will use all reasonable endeavours to meet any such delivery date but it shall not be binding on the Supplier and the Supplier shall not incur any liability whatsoever for any loss or damage resulting from delay howsoever caused, including but not limited to delays 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.
8.5 If the Customer fails to accept or take delivery of the Goods on the date that they are delivered, 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 local time on the Business Day that delivery was carried out in full in accordance with these Conditions; and
(b) any return carriage and/or storage of the Goods shall be at the expense and risk of the Customer without prejudice to any other rights of the Supplier under these Conditions or otherwise (including expenses, all related costs and insurance as applicable).
8.6 If 10 Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Customer must rearrange delivery with the Supplier within a further 10 Business Days, failing which 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.
8.7 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
8.8 Storage of any printed material element of the Goods will be stored at the Supplier's site for a maximum of six months free of charge. Storage will be charged by the Supplier to the Customer after six months if such Goods are not accepted by and delivered to the Customer. For the avoidance of doubt, the Goods will be invoiced to the Customer in accordance with these Conditions.

9. QUALITY OF GOODS

- 9.1 The Supplier warrants that on delivery and for a period of six (6) months after Delivery 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.
9.2 Subject to clause 9.3, if:
(a) the Customer gives notice in writing within a reasonable time of discovery (not exceeding 7 days) that some or all of the Goods do not comply with the warranty set out in clause 9.1;
(b) the Supplier is given a reasonable opportunity of examining such Goods; and
(c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,
the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
9.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 9.1 if:
(a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 9.2;
(b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, 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, information or Goods Specification supplied by the Customer;
(d) the Customer alters or repairs such Goods without the written consent of the Supplier;
(e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
(f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
9.4 Except as provided in this clause 9, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 9.1.
9.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 9.2.

10. LOSS OR DAMAGE IN TRANSIT

- 10.1 Subject to clause 11, the Supplier shall not be liable for any loss of or damage to the Goods howsoever arising (whether in contract, tort, including negligence) whilst in transit unless written notice thereof is given to the Supplier by the Customer:
(a) in the case of loss of or damage to Goods delivered to the Customer, within 3 days of the date said Goods are delivered in accordance with these Conditions; or
(b) in the case of Goods not delivered, within 14 days of the date upon which the Customer is notified that the Goods have been consigned for delivery.
10.2 In the event that the Customer has complied with clause 10.1 and that the Customer has a valid claim for defect, loss, damage or non-compliance with the Contract, the Supplier undertakes at its option either to repair or replace the items concerned at its expense.
10.3 Where the Goods are handed to a carrier for carriage to the Customer or to a United Kingdom port for export, any such carrier shall be deemed to be an agent of the Supplier and not of the Customer for the purposes of sections 44, 45, and 46 of the Sale of Goods Act 1979.
10.4 The Customer agrees that section 32(3) of the Sale of Goods Act 1979 shall not apply to Goods sent by the Supplier.

11. TITLE AND RISK

- 11.1 The risk in the Goods shall pass to the Customer on completion of delivery or collection whichever is the earlier.
11.2 Title to the Goods shall not pass to the Customer until 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 which case title to the Goods shall pass at the time of payment of all such sums.
11.3 The Supplier will have the right to maintain an action against the Customer for the price of the Goods notwithstanding that property/ownership in the Goods has not passed.
11.4 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 22.1(b) to clause 22.1(m); and
(e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.
11.5 Subject to clause (c), 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; and
(c) any and all proceeds received from any such sale shall be held on trust to settle any sums due in respect thereof to the Supplier and pay any balance to the Customer.
11.6 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 22.1(b) to clause 22.1(m), 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.

12. SUPPLY OF SERVICES

- 12.1 The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
12.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the order acknowledgement, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
12.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
12.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

13. CUSTOMER'S OBLIGATIONS

- 13.1 The Customer shall:
(a) ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate;
(b) co-operate with the Supplier in all matters relating to the Services;
(c) 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;
(d) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
(e) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
(f) keep and maintain all materials, equipment, documents and other property of the Supplier ("Supplier Materials") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.

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- 13.2 If the Supplier's performance of any of its obligations in respect of the Services 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) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services 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 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 13.2; 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.
- 14. CHARGES AND PRICES**
- 14.1 All prices quoted are subject to revision for errors and omissions at any time.
- 14.2 In addition to the price for the Goods and/or Services as set out within this clause, the Supplier shall be entitled to charge (at its sole discretion) the Customer for any experimental work required at its complete discretion prior to the manufacture of the Goods and/or provision of the Services, unless otherwise expressly agreed to in writing and signed by a Director of the Supplier.
- 14.3 The Supplier shall allow the Customer to make such tests and carry out inspections of such experimental work as it may reasonably require (at the Customer's cost) during pre-arranged hours and the cost of any alterations or modifications to the Goods and/or Services requested by the Customer as a result of such tests or inspections shall be charged to the Customer pursuant to the provisions of this clause 14 here to. Proofs of all work shall be submitted to the Customer for approval. The cost of authors corrections (including alterations in style) and any additional proofs necessitated by such corrections shall be charged to the Customer pursuant to the provisions of this clause 14 here to.
- 14.4 The price for Goods shall be the price set out in the Order as calculated by the Supplier on the basis of costs applicable at the date the Contract is formed in accordance with clause 2.3, subject to clause 14.10.
- 14.5 The price of the Goods is exclusive of all costs and charges of packaging and insurance of the Goods, which shall be paid by the Customer when it pays for the Goods. Unless otherwise expressly specified in the Contract, the price of the Goods shall be exclusive of all costs and charges of delivery, which will be quoted and agreed separately and in each case will be stated in the acknowledgement of Order forming the Contract.
- 14.6 Unless expressly stated otherwise all prices are exclusive of Value Added Tax and any other levies taxes or duties which shall be charged at the rate and in the manner prescribed by law from time to time.
- 14.7 Furthermore, unless otherwise agreed in writing on printed orders signed by a Director of the Supplier, the price of Goods and/or Services excludes artwork and origination and plate charges which will be charged separately.
- 14.8 Unless included expressly within the prices forming part of the Order as acknowledged and accepted by the Supplier forming the Contract, the cost of pallets used by the Supplier for the transportation of products to Customer are not included in the price of the Goods and/or Services and the pallets shall remain the property of the Supplier at all times. Arrangements should be made by the Customer to make the pallets available for collection in the same condition as received by the Supplier or otherwise returned at the Customer's expense. The Supplier reserves the right to charge the Customer for any pallets not returned within a reasonable time at the cost of their replacement at that time.
- 14.9 The charges for Services shall be agreed in advance between the Customer (including any and all taxes, VAT, disbursements, expenses or related charges) and the Supplier and until so agreed they are not binding and no Services are required to be provided by the Supplier whatsoever.
- 14.10 The Supplier reserves the right to: (a) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to: (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or (iii) any increase in the price of the Goods between the formation of the Contract and the delivery of the Goods as a result of market fluctuations or general increases imposed upon such Goods; or (iv) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods; or (v) if extra expense or any increase in costs or overheads are incurred by the Supplier as a result of the Customer's instructions or lack of instructions or any special requirements of the Customer or any modifications made at the Customer's request or the failure of the Customer to supply appropriate substrate, plates, materials, drawings, plans, specifications or any other information whatsoever to enable the Supplier to proceed with the Contract.
- 14.11 In respect of Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer monthly in arrears.
- 15. PAYMENT**
- 15.1 The Customer shall pay each invoice submitted by the Supplier: (a) within 30 days of the date of the invoice unless otherwise expressly agreed in writing; and (b) in full and in cleared funds to a bank account nominated in writing by the Supplier or via cheque or money orders made payable to or to the order of the Supplier, and time for payment shall be of the essence of the Contract.
- 15.2 For the avoidance of doubt, no deductions can be made from payment unless agreed expressly in writing by the Supplier.
- 15.3 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.
- 15.4 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 15.5 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 15.6 Unless otherwise agreed in writing by a director of the Supplier, for export sales, payment shall be made in cash in sterling in exchange for shipping documents through an irrevocable letter of credit issued in the name of the Supplier payable in London, and confirmed by a United Kingdom bank, or alternatively, payment shall be made by means of a confirmed banker's credit payable in London, the credit being confirmed by a United Kingdom bank.
- 15.7 Unless otherwise agreed in writing by a director of the Supplier, for export sales, when payment is to be made in a currency other than sterling, the price of the Goods and/or Services shall be varied in accordance with any variations of the rate of exchange of such currency at the date of payment in order to give the equivalent value of the quotation or Order in sterling, such value in sterling being computed from the exchange rate in force at the date of the quotation or tender.
- 15.8 Notwithstanding the content of this clause 15 in its entirety, the Supplier shall, without prejudice to its other rights, have the right by notice in writing to the Customer to remove the credit terms and demand immediate payment of all monies due from the Customer to the Supplier for any Goods delivered and/or Services provided at any time.
- 15.9 The Customer agrees to indemnify the Supplier for and against all direct, indirect and consequential losses, damages, liabilities, claims, costs (including legal costs) and expenses which the Supplier incurs as a result of the Customer's breach of this clause 15.
- 16. LIEN**
- 16.1 In addition to any other right of lien given by law, the Supplier shall have a general lien in respect of all sums due from or claims against the Customer upon all Goods and/or Services to be supplied to such Customer or upon which work has been or is to be done on the Customer's behalf.
- 16.2 Without prejudice to any of its other legal rights, the Supplier may at the expiration of 14 days written notice to the Customer sell any Goods of the Customer upon which the Supplier has any lien and, where the property in such Goods is at the time of such sale in the Customer, shall be deemed to be his agent for the purpose of effecting such sale. The Supplier may apply the proceeds of such sale towards the satisfaction of sums due or claims against the Customer without prejudice to the Supplier's right to recover the balance thereof from the Customer.
- 17. INTELLECTUAL PROPERTY RIGHTS**
- 17.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
- 17.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 17.3 The Customer warrants that any design or instruction furnished or given to the Supplier shall not be such as to cause the Supplier to infringe any Intellectual Property Rights of the Customer or a third party. The Customer shall indemnify the Supplier against all claims actions, losses, expenses, damages and costs incurred by the Supplier (whether in England or elsewhere) for which it may be liable due to or arising directly or indirectly out of the infringement of any patent, trade mark, trade name, registered design or other Intellectual Property Right occasioned by the importation, manufacture or sale of the Goods.
- 17.4 All Supplier Materials are the exclusive property of the Supplier.
- 18. CONFIDENTIALITY**
- A party ("**receiving party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("**disclosing party**"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 18 shall survive termination of the Contract.
- 19. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**
- 19.1 References to liability in this clause 19 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 19.2 Nothing in these Conditions shall limit or exclude the Supplier's liability for: (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or (e) defective products under the Consumer Protection Act 1987.
- 19.3 Subject to clause 19.1: (i) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information; loss of or damage to goodwill; and/or any indirect or consequential loss arising under or in connection with the Contract, or loss of anticipated profit or third party claims or other losses howsoever arising; and (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods in respect of which any such breach is alleged.
- 19.4 The Customer shall fully indemnify the Supplier, its employees, sub-contractors and agents in respect of all actions, suits, claims, demands, costs, charges or expenses arising (whether asserted by the Customer or third parties) out of or in connection with the supply of the Goods and/or provision of the Services, under any Contract, which is in excess of the limit of the Supplier's liability as set out in clause 19.3(1)(b).
- 19.5 All recommendations and advice given by or on behalf of the Supplier to the Customer as to methods of storing, using or applying the Goods, the purposes for which the Goods may be applied and the suitability of using the Goods in any manufacturing process or in connection with any other materials are given without liability on the part of the Supplier.
- 19.6 The Supplier makes no representation or warranty that use of the Goods does not infringe the rights of any third party and the Supplier accepts no liability in this respect.
- 19.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 19.8 This clause 19 shall survive termination of the Contract.
- 20. CANCELLATION**
- 20.1 Contracts and/or Orders are not subject to cancellation without the Supplier's written consent. Where cancellation is accepted, the Supplier shall, in addition to any express terms of acceptance of cancellation, be entitled to reimbursement of any costs incurred by the Supplier in connection with the Contract and/or Order including the cost of any material, plant or tools used therefore and the cost of labour and other overheads including a percentage in respect of profit.
- 21. DATA PROTECTION**
- 21.1 The following definitions apply in this clause 21: (a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures**: as defined in the Data Protection Legislation; (b) **Data Protection Legislation**: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426); (c) **Domestic Law**: the law of the United Kingdom or a part of the United Kingdom.
- 21.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 21 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 21.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor.
- 21.4 Without prejudice to the generality of clause 21.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Customer for the duration and purposes of the Contract.
- 21.5 Without prejudice to the generality of clause 21.2, 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 documented written instructions of the Customer unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits 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 UK 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 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 Contract unless required by Domestic Law to store the Personal Data; and (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 21.
- 21.6 The Customer does consent to the Supplier appointing any third party processor of Personal Data under the Contract in its sole discretion. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 21.6.
- 21.7 Either party may, at any time on not less than 30 days' notice, revise this clause 21 by replacing it with any applicable controller to processor standard clauses or similar terms adopted under the Data Protection Legislation or forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).
- 22. TERMINATION**
- 22.1 Without limiting its other rights or remedies, each 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 this 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 suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditor; (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party; (e) the other party (being an individual) is the subject of a bankruptcy petition or order; (f) a creditor or encumbrance of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company); (h) the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver; (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 22.1(b) to clause 22.1(i) (inclusive); (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; (l) the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or (m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 22.2 Without limiting its other rights or remedies, 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 this Contract on the due date for payment.
- 22.3 Without limiting its other rights or remedies, 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 this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 22.1(b) to clause 22.1(m), or the Supplier reasonably believes that the Customer is about to become subject to any of them.
- 22.4 On termination of the Contract for any 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 supplied but for which no invoice has yet been submitted (including all costs incurred by the Supplier in purchasing materials or services required to satisfy any Orders of the Customer in progress, together with work in progress to the date of termination (at the Supplier's valuation of such work in progress) and finished Goods held in stock for the Customer (at the price agreed with the Customer for such Goods)), the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt; (b) the Customer shall return all of the Supplier Materials and any Deliverables 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

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- 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;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.
- 23. FORCE MAJEURE**
- 23.1 For the purposes of this Contract, "**Force Majeure Event**" means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, pandemic or epidemic, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 23.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 23.3 If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods, the Supplier shall, in its sole discretion, have the ability to temporarily suspend performance of any Contract for a maximum of 6 months. If the Force Majeure Event is resolved within this period, the Contract shall continue and be adjusted in terms of delivery times and requirements only, to reflect any such Force Majeure period.
- 23.4 If however, the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than 6 months, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer, as a result of which the Supplier shall be discharged from further performance of and liability under the Contract. If the Supplier exercises such right the Customer shall thereupon pay the Contract price less a reasonable allowance for what has not been performed by the Supplier at the time of termination.
- 24. GENERAL**
- 24.1 Anti-Bribery**
- (a) The Customer shall 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 ("**Relevant Requirements**").
- (b) The Customer shall have and maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate.
- (c) The Customer agrees to indemnify the Supplier for and against any direct, indirect and consequential losses, damages, liabilities, claims, costs (including legal costs) and expenses incurred by the Supplier as a result of the Customer's breach of this clause.
- 24.2 Assignment and other dealings.**
- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 24.3 Notices.**
- (a) Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action
- 24.4 Severance.**
- (a) 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.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 24.5 Waiver.** A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 24.6 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 24.7 Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 24.8 Variation.** Except as set out in these Conditions, no variation of the Contract or these Conditions, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by a Director of the Supplier. For the avoidance of doubt, no representative, agent or sales person of the Supplier has authority to vary, amend or waive any of these Conditions or to give any guarantee or warranty on behalf of the Supplier.
- 24.9 Governing law.** This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 24.10 Jurisdiction** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).