

CLIENT TRADING TERMS

Version 4.2 September 2024

The Customer's attention is particularly drawn to the provisions of clause 13 (Limitation of liability) and clause 6 (Title and Risk).

It should be noted that unless expressly agreed in writing, Goods are supplied on a leased basis and title in the Goods does not pass to the Customer.

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

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.

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 17.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions and the Supplier's Quotation (if applicable).

Control: shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

Customer: the person or firm who purchases the Goods and/or Services from the Supplier.

Customer Materials: any designs, specifications, logos, branding, trademarks, copyrighted material, or other Intellectual Property Rights, items or materials supplied by the Customer to enable the Supplier to fulfil the Contract.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to personal data including without limitation the privacy of electronic communications.

Delivery Location: the location where the Goods are to be delivered and installed, as set out in the Order.

Exhibition: the trade fair or other event at the Delivery Location where the Goods are to be installed and displayed, as set out in the Order.

Force Majeure Event: has the meaning given to it in clause 16.

Goods: the exhibition stand and/or any other goods, products and materials (or any part of them) designed, manufactured and hired to the Customer by the Supplier as set out in the Order.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks 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.

Order: the Customer's order for the Goods and/or Services to be supplied by the Supplier as described in the Quotation.

Quotation: the Supplier's quotation in writing for the Goods and/or Services.

Services: the design, manufacture, transportation, installation and dismantling, refurbishment, storage, and/or disposal services (together with any other services) to be supplied by the Supplier to the Customer, as set out in the Quotation or as otherwise agreed in writing between the Supplier and the Customer.

Specification: any description or specification of the Goods and/or Services, agreed in writing by the Supplier and the Customer, including any description or specification in the Quotation.

Supplier: Focal Exhibitions Limited registered in England and Wales with company number 05537327.

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((UE) 2016/679; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended or updated or replaced from time to time.

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 Order constitutes an offer by the Customer for the purchase of the Services and/or the hire of the Goods in accordance with the Supplier's Quotation and these Conditions. The Customer is responsible for ensuring the terms of the Quotation, the Order and any applicable Specification are complete and accurate and meet its requirements.

2.2 The Order shall only be deemed to be accepted when the Supplier signs the Contract or otherwise issues written acceptance of the Order, at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document, or which are implied by trade, custom, practice or course of dealing.

- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
- 3. Goods**
- 3.1 The Supplier shall design and manufacture the Goods as described in the Quotation.
- 3.2 To the extent the Goods incorporate any Customer Materials, 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 reasonable 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 Customer Materials. 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 requirement, and the Supplier shall notify the Customer in any such event.
- 4. Hire and delivery of Goods**
- 4.1 The Customer shall hire, and the Supplier shall deliver and install, the Goods at the Delivery Location for the duration of the Exhibition.
- 4.2 Any dates quoted for delivery are approximate only and the time of delivery is not of the essence.
- 4.3 If the Supplier fails to deliver the Goods, its liability shall be limited to a refund of the amount already paid by the Customer for the Goods and Services. 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.
- 4.4 The Customer shall procure that a duly authorised representative of the Customer shall be present at the installation of the Goods. Acceptance by such representative of installation shall constitute conclusive evidence that the Customer has examined the Goods and has found them to be in good condition, in accordance with the Specification and fit for purpose. If required by the Supplier, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.
- 4.5 If the Customer purports to cancel the Contract at any time before delivery or refuses to take accept delivery of them, the Supplier shall be under no obligation to deliver or install the Goods at the Delivery Location and 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 Contract price or charge the Customer for any shortfall below the Contract price.
- 5. Quality of Goods**
- 5.1 The Goods shall, when first delivered by the Supplier, correspond with the Specification and be free from material defects in design and materials, save that the Supplier shall not be liable for any deviation from the Specification requested by the Customer or required by the organiser of an Exhibition. On subsequent occasions the Customer wishes to hire the Goods, they are hired 'as seen' and the Supplier makes no representations and gives no warranties as to the quality, condition, state or description of the Goods, or their fitness to or suitability for any purpose. All implied statutory or common law terms, conditions and warranties as to the Goods are excluded to the fullest extent permitted by law.
- 5.2 In the event the Customer either accepts delivery and installation of the Goods in accordance with clause 4.4 or fails to raise any issues with the Goods on completion of their installation at the Delivery Location, the condition of the Goods shall be deemed accepted by the Customer.
- 5.3 The terms of these Conditions shall apply to any repaired or refurbished Goods supplied by the Supplier.
- 6. Title, risk and use of the Goods**
- 6.1 The risk in the Goods shall be with the Supplier until the Goods have been delivered to and installed at the Delivery Location, at which point it shall pass to the Customer until such time as the Goods are dismantled and collected by the Supplier.
- 6.2 Title to the Goods shall not pass to the Customer. The Supplier retains title to the Goods at all times and the Customer is deemed to hire the Goods from the Supplier for the duration of each Exhibition.
- 6.3 At the end of an Exhibition the Goods shall be dismantled and collected by the Supplier. Any goods or items of the Customer left with the Supplier shall be at the Customer's risk.
- 6.4 Whilst in the possession of the Customer, the Customer shall:
- (a) ensure the Goods are used only for the purposes for which they were designed, and operated in a proper manner by trained competent staff in accordance with any instructions provided by the Supplier;
 - (b) take such steps (including compliance with all safety and usage instructions provided by the Supplier) as may be necessary to ensure, so far as is reasonably practicable, that the Goods are at all times safe and without risk to health when being used or cleaned or maintained;
 - (c) maintain at its own expense the Goods in good and substantial repair in order to keep them in as good an operating condition as when delivered (fair wear and tear excepted);
 - (d) make no alteration to the Goods and shall not remove any existing component (or components) from the Goods;
 - (e) keep the Supplier fully informed of all material matters relating to the Goods;
 - (f) keep the Goods at the Delivery Location and shall not move or attempt to move any part of the Goods to any other location without the Supplier's prior written consent;
 - (g) permit the Supplier or its duly authorised representative to inspect the Goods at all reasonable times and to enter on the Delivery Location or any premises at which the Goods may be located, and shall grant reasonable access and facilities, for such inspection and for the Supplier or its duly authorised representative to dismantle and collect the Goods at the end of the Exhibition;
 - (h) not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of the Supplier in the Goods;
 - (i) not suffer or permit the Goods to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process; and
 - (j) not use the Equipment for any unlawful purpose
- 6.5 The Customer shall insure the Goods whilst in its possession. The insurance must be for all usual risks (including fire, theft, accident and other risks) and shall be for a sum of not less than the price payable under the Contract (excluding any storage fees). The Customer shall further effect and maintain insurance against any claim by any employees, agents, contactors, subcontractors of the Customer or users of the Goods and by any third parties or their dependents in respect of any loss or damage directly or indirectly resulting from the Goods or their

- use whilst in the possession or control of the Customer. The Customer will on request produce to the Supplier evidence of such insurance and that all premiums have been paid. If the Customer fails to insure the equipment as aforesaid then the Supplier may (at its discretion) do so and the Customer will reimburse the Supplier on demand the cost thereof.
- 6.6 The Customer shall be responsible for any loss of or damage to the Goods whilst in its possession or control, or otherwise caused by the Customer or its officers, employees, agents and contractors. The Customer shall indemnify the Supplier in full against any such loss or damage and against all liabilities, costs, expenses, damages and losses suffered or incurred by the Supplier arising out of, or in connection with, any failure by the Customer to comply with the terms of this agreement.
- 6.7 If whilst the Goods are in the possession of 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 use the Goods shall immediately cease; and
 - (b) the Supplier may at any time:
 - (i) require the Customer to deliver up all Goods in its possession; 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 located in order to recover them.
- 6.8 In consideration of the annual storage fees referred to in the Quotation (as may be amended in accordance with clause 9.3), the Supplier shall store the Goods and shall, at the request of the Customer, provide further Quotations to refurbish the Goods and deliver and install them at other Exhibitions, in each case subject to these Conditions.
- 7. Supply of Services**
- 7.1 The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 7.2 The Supplier shall use its reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 The Supplier reserves the right to amend the 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.
- 7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill. All other implied statutory or common law terms, conditions and warranties as to the Services are excluded to the fullest extent permitted by law.
- 8. Customer's obligations**
- 8.1 The Customer shall:
- (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate in relation to the Services to be supplied;
 - (b) co-operate with the Supplier in all matters relating to the Services;
 - (c) 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;
 - (d) comply with all applicable laws, including health and safety laws; and
 - (e) comply with any additional obligations on the Customer as set out in the Quotation;
- (f) be responsible for ensuring that the Delivery Location is safe and suitable for the performance of the Services and, without limitation of the foregoing, is adequately served with all required public utilities; and
 - (g) be responsible for ensuring that the Services may be performed, and that the Goods may be installed and displayed, at the Delivery Location when intended in the Order.
- 8.2 The Customer may not cancel a Contract unless the Supplier agrees in writing and then on the terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used) claims, actions, damages, charges and expenses incurred by the Supplier as a result of such cancellation.
- 8.3 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 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 8.3; 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.
- 9. Price and payment**
- 9.1 In relation to the price for Goods and Services:
- (a) the price shall be set out in the Quotation;
 - (b) the terms for payment are set out in the Quotation, but failing that or if not stated, the Customer shall pay 80% of the price on the Commencement Date and shall pay the balance (including any extra sums due under 9.2 below) on completion of the Contract, which shall (where applicable) be the installation of the Goods at the Delivery Location, or the completion of the Services as notified by the Supplier, or if the Contract is abandoned, at the time of abandonment;
 - (c) any periodical charges will continue to be invoiced when due until the Contract is terminated in accordance with clause 14; and
 - (d) the Customer shall pay to the Supplier on demand any gross charges incurred by the Supplier in effecting any relevant insurances which in the opinion of the Supplier are necessary or desirable for the effective carrying out of the Contract.
- 9.2 Where the price for Services is calculated on a time and materials basis:
- (a) the price shall be calculated in accordance with the Supplier's daily fee rates, as set out in the Quotation;
 - (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;
 - (c) the Supplier shall be entitled to charge an overtime rate which shall be a percentage amount of the

- daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 9.2(b); and
- (d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 9.3 The Supplier reserves the right to:
- (a) Increase any periodical charges (eg for storage or insurance of the Goods) on an annual basis by giving the Customer not less than 3 months' notice of such increase; and
- (b) increase the price for the Services and Goods by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Services or 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), the Services, or the Goods Specification; or
- (iii) any delay caused by any instructions of the Customer in respect of the Goods or Services or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods or Services.
- 9.4 The Customer shall pay each invoice submitted by the Supplier:
- (a) within 7 days of the date of the invoice or in accordance with any credit or payment terms agreed by the Supplier and confirmed in writing to the Customer; and
- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier.
- 9.5 Time for payment shall be of the essence of the Contract.
- 9.6 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.
- 9.7 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 14 (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 9.7 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%.
- 9.8 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).
- 10. Intellectual property rights**
- 10.1 All Intellectual Property Rights in the Goods or in or arising out of or in connection with the Services, including in any proposal, Specification or Quotation for the Goods or Services (other than Intellectual Property Rights in the Customer Materials) shall be owned exclusively by the Supplier.
- 10.2 The Customer grants the Supplier a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to use, copy and modify the Customer Materials for the purpose of providing the Goods and Services to the Customer in accordance with the Contract.
- 11. Data protection**
- 11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 11.2 The parties acknowledge that, if the Supplier processes any personal data on the Customer's behalf when performing its obligations under the Contract:
- (a) the Customer is the controller and the Supplier is the processor for the purposes of the Data Protection Legislation;
- (b) the parties will jointly prepare and agree a schedule setting out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject; and
- (c) the personal data may be transferred or stored outside the EEA or the country where the Customer is located in order to carry out the Services and the Supplier's other obligations under the Contract.
- 11.3 Without prejudice to the generality of clause 11.1, 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 for the duration and purposes of the Contract so that the Supplier may lawfully use, process and transfer the personal data in accordance with the Contract on the Customer's behalf.
- 11.4 Without prejudice to the generality of clause 11.1, 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 documented written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier and/or Domestic UK Law (where **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK) to process personal data (**Applicable Laws**). Where the Supplier is relying on Applicable Laws 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) not transfer any personal data outside of the EEA unless 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;
- (d) 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;
- (e) notify the Customer without undue delay on becoming aware of a personal data breach;
- (f) 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 Applicable Law to store the personal data; and
- (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 11 and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 11.5 The Customer consents to the Supplier appointing third-party processors of personal data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause and in either case which the Supplier confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. 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 11.
- 11.6 Either party may, at any time on not less than 30 days' notice, revise this clause 11 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).
- 12. Confidentiality**
- 12.1 Each party undertakes that it shall not at any time during the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.
- 12.2 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 clause 12; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 13. Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 13.1 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.
- 13.2 Subject to clause 13.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- (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; or
 - (g) any indirect or consequential loss.
- 13.3 Subject to clause 13.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract, shall be limited to 100% of the total charges paid under the Contract.
- 13.4 Any samples, drawings, descriptive matter 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 Goods and Services described in them. They shall not form part of the Contract nor have any contractual force.
- 13.5 Any typographical or clerical error or omission in any Quotation, price list, acceptance. invoice or other such document issued by the Supplier shall be subject to correction without any liability on the part of the Supplier;
- 13.6 All specifications, descriptions, drawings, designs, measurements or other information provided by the Supplier in relation to Goods are approximate, howsoever provided, and the Supplier reserves the right to incorporate reasonable modifications or amendments to the Goods.
- 13.7 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.
- 13.8 This clause 13 shall survive termination of the Contract.

14. Termination

14.1 Without affecting any other right or remedy available to it, and subject to the provisions of clause 15.1, either party may terminate the Contract by giving the other party not less than 3 months' written notice.

14.2 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 14 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.

14.3 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:

- (a) the Customer fails to pay any amount due under the Contract on the due date for payment; or
- (b) there is a change of control of the Customer.

14.4 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.

15. Consequences of termination

15.1 On termination of the Contract:

- (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) where the Customer has terminated the Contract by giving notice under clause 14.1, or the Supplier has terminated the Contract pursuant to clauses 14.2 or 14.3, the Supplier shall invoice and the Customer shall immediately pay all fees payable under the Contract as if it had been performed in full (in consideration of the Supplier scheduling the work for the Customer and turning away other work);
- (c) the Customer shall return the Goods to the Supplier. If the Customer fails to do so, then the Supplier may enter any premises where the Goods are located and take possession of them. The

Customer shall reimburse any costs incurred by the Supplier in recovering the Goods. Until they have been so returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose; and

- (d) the Supplier shall be entitled to dismantle and scrap the Goods, for which it will charge the Customer (and the Customer agrees to pay) a scrappage fee as stated in the Quotation.

15.2 Termination or expiry 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 or expiry.

15.3 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.

16. Force majeure

Neither party shall be in breach of the Contract nor liable for any delay in performing or a failure to perform, any of its obligations under the Contract if such delay or failure results from an event, circumstance or cause beyond its reasonable control (**Force Majeure Event**).

17. General

17.1 Assignment and other dealings

- (a) 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.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, 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.

17.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be 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 sent by fax to its main fax number
- (b) Any notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; 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; or, if sent by fax, at 9.00 am on the next Business Day after transmission.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

17.3 **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.

17.4 **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 breach or default. 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.

17.5 **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.

17.6 **Entire agreement.**

(a) 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.

(b) 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 based on any statement in the Contract.

(c) Nothing in this clause shall limit or exclude any liability for fraud.

17.7 **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.

17.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

17.9 **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.

17.10 **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.