

TERMS & CONDITIONS OF SALE



Date: 06 February 2019

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INTRODUCTION

The Customer's attention is particularly drawn to the provisions of clause 10.

1. INTERPRETATION

- 1.1. The definitions and rules of interpretation set out in this clause apply in this agreement:
- **Business Day:** a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.
 - **Commencement Date:** has the meaning set out in clause 2.2.
 - **Conditions:** these terms and conditions as amended from time to time in accordance with clause 13.8.
 - **Contract:** the contract between the Supplier and the Customer for the supply of Goods in accordance with these Conditions.
 - **Customer:** the person or firm who purchases the Goods from the Supplier.
 - **Force Majeure Event:** has the meaning given to it in clause 13.1.1.
 - **Goods:** the goods (or any part of them) set out in the Order.
 - **Goods' Destination:** the address that the Customer has indicated that it wants the Goods to be sent to, as set out in the Order
 - **Order:** the Customer's order for the supply of Goods as set out the Customer's purchase order form where no quotation has been provided by the Supplier or the Customer's written acceptance of the Supplier's quotation if a quotation has been provided.
 - **Payment Due Date:** the date on which payment is due from the Customer to the Supplier in accordance with clause 8.8.
 - **Specification:** where relevant, the description or specification for the Goods provided in writing by the Supplier to the Customer.
 - **Supplier:** Industrial Power Units Limited of Cygnus Way, West Bromwich, B70 0XB; registered in England and Wales with company number 641876.
 - **Supplier's Premises:** Cygnus Way, West Bromwich, B70 0XB.
- 1.2. Construction. In these Conditions, the following rules apply:
- 1.2.1. a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2. a reference to a party includes its personal representatives, successors or permitted assigns;

- 1.2.3. a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute
- 1.2.4. or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.5. 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
- 1.2.6. a reference to writing or written includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1. The Order constitutes an offer by the Customer to purchase Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.2. The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (Commencement Date).
- 2.3. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4. Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods contained in the Supplier's catalogues, brochures or other written material are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5. 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.
- 2.6. Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 calendar days from its date of issue, unless otherwise agreed in writing.

3. GOODS

- 3.1. The Goods are described in the Supplier's catalogue and online at www.ipu.co.uk.
- 3.2. The Supplier reserves the right to amend the Specification of the Goods if:
 - 3.2.1. required by any applicable statutory or regulatory requirements;
 - 3.2.2. if such amendment improves the quality of the Goods; or

- 3.2.3. the component parts contained in the original Specification of the Goods are not available at the time the Goods are produced.

4. DELIVERY OF GOODS

- 4.1. The Supplier shall ensure that:
 - 4.1.1. 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
 - 4.1.2. 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.
- 4.2. The Supplier shall deliver the Goods at any time after the Supplier notifies the Customer that the Goods are ready.
- 4.3. Delivery of the Goods shall be completed on the loading of the Goods at the Supplier's Premises for the purposes of sending the Goods to the Goods' Destination, or, where the Customer collects the Goods from the Supplier, on collection.
- 4.4. Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5. If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event 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.
- 4.6. If the Customer fails to accept or take delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

- 4.6.1. delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
- 4.6.2. the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.7. If 14 Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted or taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 4.8. 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.

5. RETURNS

- 5.1. If the Customer changes its mind about the Goods, it may return them to the Supplier at its own cost within 30 calendar days of delivery, subject to the Supplier being satisfied that the Goods are still in an 'as new' and fully functioning condition.
- 5.2. Determination of whether the Goods returned in accordance with clause 5.1 are in an 'as new' and fully functioning condition is entirely in the sole opinion of the Supplier.
- 5.3. If the Supplier accepts return of the Goods in accordance with clause 5.1, the Supplier will refund the price the Customer was charged for the Goods, minus a handling fee of 20% of the price of the Goods, which will be retained by the Supplier.
- 5.4. If the Supplier accepts a return of Goods in accordance with clause 5.1, the Supplier shall pay the amount refunded under clause 5.3 to the Customer within 30 calendar days of the Supplier notifying the Customer that it accepts the return.
- 5.5. Acceptance of returns under this clause shall be entirely at the discretion of the Supplier.

6. QUALITY OF GOODS & WARRANTY

- 6.1. The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (Warranty Period), the Goods shall:
 - 6.1.1. conform in all material respects with their description;

- 6.1.2. be free from material defects in design, material and workmanship;
 - 6.1.3. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - 6.1.4. be fit for any particular purpose expressly held out by the Supplier (but not any implied purpose).
- 6.2. Subject to clause 6.3, if:
- 6.2.1. the Customer gives notice in writing during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;
 - 6.2.2. the Supplier is given a reasonable opportunity of examining such Goods (including, but not limited to permitting the Supplier to examine the Goods at the Customer's premises for the purposes of failure analysis);
 - 6.2.3. 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; and
 - 6.2.4. such defect shall be attributable to the Supplier,
- the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in part or in full.
- 6.3. The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 6.1 if:
- 6.3.1. the Customer makes any further use of such Goods after giving a notice in accordance with clause 6.2;
 - 6.3.2. the defect arises because the Customer or any third party (other than the Supplier) 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;
 - 6.3.3. the Customer cannot provide the Supplier with evidence that the Goods have been maintained in accordance with all of the Supplier's oral and written instructions;
 - 6.3.4. the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
 - 6.3.5. the Customer alters or repairs such Goods without the prior written consent of the Supplier or uses non-Supplier sourced or approved spares;
 - 6.3.6. the Customer has modified the Goods in any way without the prior written consent of the Supplier, including, but not limited to, being painted;
 - 6.3.7. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or

- 6.3.8. the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 6.4. Except as provided in this clause, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.
- 6.5. Where the Goods' failure to comply with the warranty in clause 6.1 is as a result of the circumstances in 6.3, the Customer shall pay the Supplier's reasonable costs of examining the Goods, including travel costs, accommodation (when required), and labour costs at the prevailing hourly rates of the Supplier at the time the Goods are examined.
- 6.6. Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 6.7. The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 6.2.
- 6.8. Where the Supplier repairs or replaces the Goods, the Warranty Period is treated as continuing as if the repaired or replacement Goods were supplied at the original date of delivery set out at clause 4.3.
- 6.9. Where the Supplier attends the Customer's premises to inspect the Goods, the Customer shall use all reasonable endeavours to ensure that the Supplier's employees, representatives and agents are made aware of all applicable security, safety and other regulations at its premises, and of the relevant safety policy.
- 6.10. The Supplier shall offer technical support without additional cost via telephone, fax or email during normal business hours in the United Kingdom, for the Warranty Period.
- 6.11. Outside of the Warranty Period, technical support is provided free of charge via telephone.
- 6.12. The Supplier shall only be able to provide technical support if the Customer is able to provide it with the following information:
- Customer Name;
 - Customer Contact Details;
 - Device Type;
 - Device Serial Number;
 - Date of Supply; and
 - A clear description of the issue facing the Customer.

6.13. The contact details for the technical support services are:

Telephone (+44) (0) 121 511 0400

Facsimile (+44) (0) 121 511 0401

Email (support@ipu.co.uk)

7. TITLE AND RISK

7.1. The risk in the Goods shall pass to the Customer on completion of delivery or deemed delivery in accordance with clause 4.

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

7.2.1. the Supplier receiving payment in full (of cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and

7.2.2. the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 7.5.

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

7.3.1. store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

7.3.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

7.3.3. 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;

7.3.4. notify the Supplier immediately if it becomes subject to any of the events listed in clause 11.1.2 to clause 11.1.13; and

7.3.5. give the Supplier such information relating to the Goods as the Supplier may require from time to time.

7.4. If, after risk to the Goods has passed to the Customer, but before the title to the Goods passes to the Customer, the Goods become damaged or destroyed, the Customer shall use its best endeavours to:

7.4.1. make an insurance claim for the full reinstatement cost of the Goods from its insurer within 3 Business Days of the date of damage or destruction (Insurance Claim);

7.4.2. assist the insurer with all enquiries it may have regarding the Insurance Claim;

- 7.4.3. keep the Supplier fully informed as to the progress of the Insurance Claim and provide the Supplier with updates, no longer than at intervals of 7 Business Days;
 - 7.4.4. hold the proceeds of the Insurance Claim on the Supplier's behalf as its trustee; and
 - 7.4.5. advance such proportion of the proceeds of the Insurance Claim to the Supplier in payment of all sums due to it within 7 Business Days of receiving such proceeds from the insurer.
- 7.5. Subject to clause 7.6, 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:
- 7.5.1. it does so as principal and not as the Supplier's agent; and
 - 7.5.2. title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 7.6. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 11.1.2 to clause 11.1.13, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, without limiting any other right or remedy the Supplier may have:
- 7.6.1. the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
 - 7.6.2. the Supplier may at any time:
 - 7.6.2.1. Require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - 7.6.2.2. 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.
- 7.7. If the Supplier has not received payment in full (in cash or cleared funds) for the Goods by the Payment Due Date, the Customer's right to possession of the Goods or any part of them shall end and the Supplier shall be entitled to terminate the Contract and the Customer shall (at its own expense) deliver up the Goods to the Supplier and if the Customer fails to do so promptly, the Supplier may enter the premises of the Customer or any third party where the Goods are stored in order to recover them.

8. PRICE AND PAYMENT

- 8.1. The price for Goods shall be the price set out in the Order or, if no price is quoted, the price set out in the Supplier's published price list as at the date of delivery.
- 8.2. The Supplier may, by giving notice to the Customer at any time up to 14 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
 - 8.2.1. any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 8.2.2. any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - 8.2.3. any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 8.3. The price of the Goods is exclusive of the costs and charges of delivery, packaging, insurance and transport of the Goods.
- 8.4. The price of the Goods is exclusive of amounts in respect of value added tax (VAT).
- 8.5. 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 Goods at the same time as payment is due for the Goods where applicable.
- 8.6. Unless otherwise agreed in writing, the Supplier may invoice the Customer for the Goods on or at any time after the completion of delivery.
- 8.7. The Supplier may invoice the Customer for any costs incurred under clause 6.5 at any time after examination of the Goods.
- 8.8. Unless otherwise agreed in writing, the Customer shall pay the invoice in full and in cleared funds 30 days from the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.
- 8.9. Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the Payment Due Date, the Supplier shall have the right to charge interest on the overdue amount at the rate of 5 per cent per annum on a daily basis from the Payment Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.

- 8.10. The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. 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.

9. CUSTOMER'S OBLIGATIONS

- 9.1. The Customer shall:
- 9.1.1. obtain all necessary consents, licences, permissions and clearances from any government or other authority in relation to, without limitation, the carriage, delivery, supply, use, import and export of the Goods at its sole cost and expense; and
 - 9.1.2. unless otherwise agreed in writing, pay all carriage, freight, import and export customs, duties, taxes and levies charged in respect of the delivery of the Goods and comply with all relevant laws and regulations to which it may be subject.
- 9.2. The Customer shall provide full information and documentation to the Supplier as it requires at any time to ensure that the Supplier is satisfied that that the Customer has complied with its obligations under clause 9.1.
- 9.3. Failure by the Customer to comply with its obligations under this clause shall not entitle the Customer to withhold or delay payment to the Supplier if this has become due.

10. LIMITATION OF LIABILITY: PLEASE READ CAREFULLY

- 10.1. Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- 10.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 10.1.2. fraud or fraudulent misrepresentation;
 - 10.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 - 10.1.4. defective products under the Consumer Protection Act 1987.
- 10.2. Subject to clause 10.1:
- 10.2.1. 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, or any indirect or consequential loss arising under or in connection with the Contract ; and

- 10.2.2. the Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £5,000,000 per claim. The Supplier's liability 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 is therefore limited to £5,000,000 and the Customer is responsible for making its own arrangements in respect of any excess.
- 10.3. Except where otherwise stated in these terms and conditions, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 10.4. This clause shall survive termination of the Contract.

11. TERMINATION

- 11.1. 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:
 - 11.1.1. 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 7 days after receipt of notice in writing of the breach;
 - 11.1.2. 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) 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;
 - 11.1.3. 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 creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 11.1.4. 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;
 - 11.1.5. the other party (being an individual) is the subject of a bankruptcy petition or order;

- 11.1.6. a creditor or encumbrancer 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;
 - 11.1.7. 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);
 - 11.1.8. 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;
 - 11.1.9. 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;
 - 11.1.10. 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 11.1.2 to clause 11.1.9 (inclusive);
 - 11.1.11. the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
 - 11.1.12. 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
 - 11.1.13. 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.
- 11.2. Without limiting its other rights or remedies, the Supplier may terminate the Contract:
- 11.2.1. by giving the Customer 1 month's written notice;
 - 11.2.2. 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.
- 11.3. Without limiting its other rights or remedies, the Supplier shall have the right to suspend all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if:
- 11.3.1. the Customer fails to make pay any amount due under this Contract on the due date for payment; or

- 11.3.2. the Customer becomes subject to any of the events listed in clause 11.1.2 to clause 11.1.13, or the Supplier reasonably believes that the Customer is about to become subject to any of them.

12. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- 12.1. the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest;
- 12.2. the Customer shall return all of the Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be wholly responsible for their safekeeping and will not use them for any purpose connected with this Contract;
- 12.3. 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
- 12.4. clauses which expressly or by implication have effect after termination shall continue in full force and effect.

13. GENERAL

13.1. Force majeure:

- 13.1.1. 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 party or any other party), failure of a utility service or transport network, act of God, 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.
- 13.1.2. 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.
- 13.1.3. If the Force Majeure Event prevents the Supplier from providing any of the Goods for more than 3 weeks, 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.

13.2. Assignment and subcontracting:

13.2.1. The Supplier may at any time assign, transfer, 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.

13.2.2. The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

13.3. Notices:

13.3.1. Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

13.3.2. Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or 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, on the next Business Day after transmission.

13.3.3. This clause shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

13.4. Waiver and cumulative remedies:

13.4.1. A waiver of any right under the Contract 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 preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

13.4.2. Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.

13.5. Severance:

- 13.5.1. If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted or modified, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 13.5.2. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted or modified, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 13.5.3. If one party gives notice to the other of the possibility that any provision or part-provision of the Contract is illegal, invalid 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.

13.6. No partnership:

- 13.6.1. Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

13.7. Third parties:

- 13.7.1. Subject to clause 13.2.1, a person who is not a party to the Contract shall not have any rights under or in connection with it.

13.8. Variation:

- 13.8.1. Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Supplier.

13.9. Governing law:

- 13.9.1. The Contract, 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 laws of England and Wales.

13.10. Jurisdiction:

- 13.10.1. 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 the Contract or its subject matter or formation (including non- contractual disputes and claims).

14. NON-DISINTERMEDIATION

- 14.1. The Customer shall not, during the currency of this agreement and for a period of 12 months following the Commencement Date, directly or indirectly:
- 14.1.1. enter into any discussions or negotiations with any of the Supplier's suppliers, the subject matter of which is the potential purchase by or for the Customer of the goods or services they had purchased from the Supplier;
 - 14.1.2. attempt to do any of the things mentioned in clause 14.1.1 above; or
 - 14.1.3. permit or suffer any third party to do any of the things specified in clauses 14.1.1 to 14.1.2 above, to the extent that the Customer's intention is to purchase such goods or services directly or indirectly instead of through the Supplier.
 - 14.1.4. Without limiting any other right or remedy of the Supplier, the Customer shall fully indemnify the Supplier and keep the Supplier fully indemnified from and against any loss or damage of any kind suffered or incurred by the Supplier and resulting from any breach by the Customer of this clause.
 - 14.1.5. The Customer acknowledges that the restrictions contained in this clause are reasonable and necessary to protect the legitimate business interests of the Supplier, having regard to the work undertaken and expense incurred by the Supplier in developing and maintaining its business relationship with its customers.