

TERMS AND CONDITIONS OF PURCHASE

The following terms and conditions (collectively “**Terms**”) will govern the offer and sale of all Products pursuant to a Purchase Order between Michael Smith Engineers Limited and the Supplier, unless other terms are specified in writing in the relevant Purchase Order.

1. Interpretation

1.1 In these Terms, the following definitions shall apply:

“**Business Day**” means a day (other than a Saturday, Sunday or a public holiday) when banks in London are ordinarily open for business;

“**Charges**” means the charges payable by the Company for the supply of the Products in accordance with the requirements of these Terms;

“**Company**” means Michael Smith Engineers Limited, whether acting as a principal in purchasing Products on its own behalf, or acting as an agent in purchasing Products for a third party;

“**Contract**” means the contract between the Company and the Supplier comprised of the Purchase Order and these Terms;

“**Data Protection Legislation**” means the General Data Protection Regulation 2016/679 (GDPR) and any national implementing laws, regulations and secondary legislation in the United Kingdom relating to the processing of personal data and the privacy of electronic communications, as amended, replaced or updated from time to time and any successor legislation to the GDPR or the Data Protection Act 1998;

“**Delivery Date**” means the date specified for delivery of an order specified by the Company in the Purchase Order or otherwise as notified to the Supplier in writing in advance of delivery;

“**Delivery Location**” means the location specified for delivery of an order specified by the Company in the Purchase Order or otherwise as notified to the Supplier in writing in advance of delivery;

“**Force Majeure Event**” means an event beyond the control of a party (or any person acting on its behalf), which by its nature could not have been foreseen by such party (or such person), or, if it could have been foreseen, was unavoidable, and includes Acts of God, storms, floods, drought, tempests, fires, explosions, accident, sabotage, epidemics, pandemics, riots, war or threat of war, insurrection, civil commotion or civil unrest, governmental action, requisition or expropriation, acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, interference by civil or military authorities, armed hostilities or other national or international calamity or one or more acts of terrorism, withdrawal or suspension of any relevant regulatory consent, permit, licence or authorisation, demise of any energy source, demise of any supply source, difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery, labour problems or shortages, strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of either the Supplier or the Company or of a third party), transportation issues, shipping blockades, import or export restrictions, regulations or embargoes, trade sanctions or boycotts;

“**Incoterms 2010**” means the most recent version of the set of rules published by the International Chamber of Commerce which defines the responsibilities of sellers and buyers for the delivery of goods under sales contracts for international trade;

“**Intellectual Property Rights**” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Local Currency” means the currency of the Supplier’s Jurisdiction;

“Local Sales Tax” means any sales or equivalent tax which is payable by the Supplier in the Supplier’s Jurisdiction in respect of the supply of Products to the Company;

“Products” means the goods and/or services or any part of them as set out in the Purchase Order;

“Purchase Order” means the Company’s order for the supply of Products as set out in the Company’s purchase order form and includes any documents referred to in a Purchase Order;

“Specification” means any specification for the Products that is set out in the Purchase Order or otherwise as stipulated by the Company in writing;

“Supplier” means the supplier of the Products as specified in the Purchase Order;

“Supplier’s Jurisdiction” means the jurisdiction in which the Supplier’s principal place of business is located;

“VAT” means Value Added Tax.

1.2 In these Terms:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) any schedules form part of these Terms and shall have effect as if set out in full in the body of these Terms and any reference to these Terms includes such schedules;
- (c) clause, paragraph and schedule headings do not affect the interpretation of these Terms;
- (d) references to clauses, paragraphs and schedules are (unless otherwise provided) references to the clauses, paragraphs and schedules of these Terms;
- (e) any reference to a "party" means a party to the Contract and "parties" shall be construed accordingly;
- (f) words in the singular include the plural and in the plural include the singular;
- (g) 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 or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (h) a reference to writing or written includes faxes and e-mails;
- (i) any specific times which are stated, are stated in reference to Greenwich Mean Time (GMT).

2. Contract Formation

- 2.1 The Supplier has offered to provide, and the Company has accepted that offer through the issue of the Purchase Order, those Products specified in the Purchase Order. The Contract shall be deemed to have been formed on the date on which the Purchase Order was issued by the Company.
- 2.2 The Supplier shall sell and the Company shall buy the Products in accordance with the Contract.

- 2.3 These Terms and the terms of the Purchase Order shall apply to and shall govern the Contract to the exclusion of any other terms or conditions that the Supplier seeks to impose or incorporate and shall prevail over any inconsistent terms or conditions contained, or referred to, in any quotation or specification or other document put forward by the Supplier from time to time, or which might otherwise be implied by trade, custom, practice or course of dealing. No provision that is not expressly set out in the Contract shall in any manner govern or affect it or any obligation arising under or in connection with it. No shipping terms (as defined by the Incoterms 2010) which are nominated by either party shall diminish any obligation of the Supplier or limit any right of the Company under the Contract.
- 2.4 In the event of any conflict or inconsistency between the terms of the Purchase Order and these Terms, the terms of the Purchase Order shall prevail to the extent of such conflict or inconsistency.
- 2.5 A variation or amendment of the Contract shall be of no effect unless agreed in writing by an authorised representative of the Company.

3. Charges and payment

- 3.1 The Charges shall be set out in the Purchase Order, and shall be the full and exclusive remuneration of the Supplier in respect of the sale of the Products. Unless otherwise agreed in writing by the Company (signed by an authorised representative of the Company), the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the sale of the Products (including but not limited to the costs of packaging, import, export, packing, insurance, carriage, shipping, any customs duties, clearance charges, taxes, broker's fees and other amounts payable in connection with importation and delivery of the Products and any other costs, charges or expenses incurred).
- 3.2 No increase in the Charges may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Company in writing.
- 3.3 No additional charges shall be accepted by the Company without the prior consent of the Company in writing.
- 3.4 Unless otherwise agreed by the Company in writing, any costs incurred by the Supplier in respect of secondary packaging (including the cost of pallets) are the Supplier's responsibility and shall be included in the Charges.
- 3.5 The Company shall be entitled to (i) any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier and (ii) the benefit of any other cost saving incurred by the Supplier, whether or not shown on its own terms and conditions of sale.
- 3.6 The Supplier shall supply to the Company a valid invoice in respect of Products supplied pursuant to a Purchase Order within the previous month as soon as practicable following that month end together with such supporting information required by the Company to verify the validity of the invoice, including but not limited to the Purchase Order number. The invoice shall explicitly state whether VAT or Local Sales Tax is chargeable on the sale of the Products, together with the amounts so chargeable.
- 3.7 All amounts payable by the Company under the Contract are stated exclusive of amounts in respect of VAT or Local Sales Tax chargeable for the time being. Where (i) the invoice explicitly states that VAT or Local Sales Tax is chargeable, together with (ii) the amounts so chargeable, and the Company (i) has verified the validity of the invoice and (ii) has determined that VAT or Local Sales Tax is chargeable in the amounts stipulated by the Supplier, the Company shall pay

to the Supplier such additional amounts in respect of VAT or Local Sales Tax as are chargeable on the sale of the Products at the same time as payment is due for the sale of the Products.

- 3.8 The Supplier must send separate invoices for each delivery (unless otherwise specified by the Company in writing). For deliveries which originate within and are completed within the United Kingdom, the Company will pay each invoice at the end of the second month following the month of invoice, or as otherwise agreed by the Company in writing. For all other deliveries, the Company will pay each invoice at the end of the second month following the month in which the corresponding Bill of Lading is dated, or as otherwise agreed by the Company in writing.
- 3.9 The Company will not accept or pay any invoices submitted in advance of delivery of the Products, unless otherwise agreed by the Company in writing.
- 3.10 If any sum under the Contract is not paid when due, the Supplier shall not be entitled to suspend delivery of the Products as a result of any sums being outstanding.
- 3.11 The Company shall be free to pay amounts due to the Supplier in whichever method the Company prefers, including but not limited to electronic transfer of funds or BACS payments. The Supplier undertakes to provide the Company with the relevant account and payment details to allow the Company to make payments when due to the Supplier in conformity with the Contract.
- 3.12 Invoices must be raised in Local Currency and payments shall be made by the Company in Local Currency, unless otherwise expressly stated to the contrary in the Purchase Order. The Supplier shall have no right to request or require that payments be made in any other currency unless the Company gives its prior written approval (signed by an authorised representative of the Company).
- 3.13 The Company reserves the right to charge the Supplier an administration fee should the Supplier persistently fail to comply with any of the requirements outlined in this clause 3.
- 3.14 The Company may, without limiting its other rights or remedies, set off any amount owed to it by the Supplier under the Contract against any amount payable by the Company to the Supplier under the Contract.

4. Supplier's obligations

- 4.1 The Supplier shall produce, pack and supply the Products in accordance with the Specification and all generally accepted industry standards and practices that are applicable.
- 4.2 The Supplier warrants that the Products supplied to the Company by the Supplier under this Contract shall:
 - (a) conform to the Specification;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose (i) for which the Products are commonly used; or (ii) which has been specified or made known to the Supplier by the Company; or (iii) which has been stated or held out by the Supplier; or (iv) which should otherwise be reasonably apparent to the Supplier;
 - (c) be free from any defects;
 - (d) comply with all applicable statutory and regulatory requirements; and

- (e) if the Contract requires the Supplier to provide services to the Company, then the Supplier shall, throughout the duration of the Contract, perform the services in a good and workmanlike manner and observe any reasonable instructions given to it by the Company in connection with the performance of its obligations under the Contract.
- 4.3 The Supplier shall ensure that the Products are properly packed and secured in such manner as to enable them to reach their destination in an undamaged condition.
- 4.4 The Supplier shall obtain and maintain in force for the duration of the Contract all licences, permissions, authorisations, consents and permits needed to produce and supply the Products in accordance with the Contract.
- 4.5 The Supplier shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the production, packing, packaging, marking, storage, handling, and delivery of the Products.
- 4.6 The Company shall have the right to enter the Supplier's premises to:
 - (a) inspect the facilities and the equipment used by the Supplier in the production, packaging and supply of the Products; and
 - (b) inspect and take samples of any raw materials (if any), the packaging and the Products.
- 4.7 Any inspection carried out pursuant to clause 4.6 shall be carried out during the Supplier's business hours on reasonable notice to the Supplier, provided that, in the event of an emergency (the existence of which shall be determined by the Company, acting reasonably), the Supplier shall grant the Company immediate access to its premises upon request.
- 4.8 The Company shall have the right to inspect any services performed by the Supplier pursuant to the Contract and the Supplier shall allow all reasonable access and assistance to the representatives of the Company to enable such representatives to carry out the inspection promptly, including providing the Company with any information that may be reasonably required.
- 4.9 If, following an inspection pursuant to clause 4.7 or 4.8, the Company considers that the Products are not or are not likely to be as warranted under clause 4.2, the Company shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure that the Products are or will be as warranted under clause 4.2. The Company shall have the right to re-conduct inspections and/or take further samples after the Supplier has carried out the remedial action required by this clause 4.9.
- 4.10 All necessary instructions or recommendations relating to handling, use and storage of the Products shall be supplied by the Supplier to the Company.
- 4.11 Without prejudice to any of the Supplier's obligations under this clause 4, the Supplier acknowledges that any forecasts, forward projections or schedules of volume provided to the Supplier by the Company are given only as an indication of the Company's requirements, are not binding and are subject to change without notice.
- 4.12 Without limiting any of the Supplier's obligations under this clause 4, the Supplier agrees to provide the Company with reasonable evidence of the Supplier's compliance with this clause 4 upon demand.

5. Delivery

- 5.1 The Supplier shall deliver the Products to the Delivery Location on the Delivery Date. The Supplier shall adhere strictly to any specific delivery time or delivery schedule on the Delivery Date as may be specified by the Company (if any). No shipping terms (as defined by the Incoterms 2010) which are nominated by either party shall diminish any obligation of the Supplier or limit any right of the Company under the Contract. Time of delivery is of the essence. The Supplier shall immediately notify the Company in writing of any delay in delivery and the likely duration of such delay.
- 5.2 The Supplier shall not deliver the Products in advance of the Delivery Date without the prior written consent of the Company.
- 5.3 Delivery of the Products shall be complete on the completion of unloading and stacking of the Products at the Delivery Location. The Supplier shall immediately notify the Company when delivery has been completed pursuant to this clause 5.3.
- 5.4 The Supplier shall not deliver the Products by instalments except with the prior written consent of the Company. Where the Products are to be delivered by instalments, the respective instalments shall be invoiced and paid for separately.
- 5.5 If the Products are not delivered on the specified Delivery Date (or, where applicable, are not delivered in accordance with any specific delivery time or delivery schedule on the Delivery Date as may be specified by the Company), then, without limiting any other right or remedy the Company may have, the Company may:
- (a) refuse to take any subsequent attempted delivery of the Products;
 - (b) terminate the Contract with immediate effect;
 - (c) refuse to pay the Charges for the rejected Products, without liability to the Supplier;
 - (d) where the Products have already been paid for in part or in full, require the Supplier to repay the Charges for the rejected Products in part or in full, as applicable (whether or not the Company has previously required the Supplier to replace the rejected Products);
 - (e) obtain substitute products from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Company in obtaining such substitute products; and
 - (f) claim damages for any other costs, expenses or losses directly or indirectly resulting from the Supplier's failure to deliver the Products on the Delivery Date.
- 5.6 If the Company fails to accept delivery of the Products on the specified Delivery Date, then, except where such failure or delay is caused by the Supplier's failure to comply with its obligations under the Contract:
- (a) the Products shall be deemed to have been delivered at 3.00pm on the Delivery Date; and
 - (b) the Supplier shall store the Products until delivery takes place, without charge to the Company.
- 5.7 Each delivery shall be accompanied by a delivery note from the Supplier showing:
- (a) the Purchase Order Number;

- (b) the date of the Purchase Order;
 - (c) the type and quantity of Products included in the Purchase Order; and
 - (d) where the Products are being delivered by instalments, the outstanding balance of Products remaining to be delivered.
- 5.8 The Supplier shall be obliged to obtain the signature of the Company's representative on the delivery note required pursuant to clause 5.7, but such signature shall not indicate acceptance of the Products.
- 5.9 Where requested by the Company to do so, the Supplier shall provide a full set of documents (as required by the Company for presentation to Shipping Cost Carriers and Customs & Excise) to the Company's clearance agents in sufficient time prior to arrival of the delivery in order to enable clearance to be effected. The Supplier will indemnify the Company in respect of any extra costs incurred due to the late provision of any documents.
- 5.10 If the Supplier:
- (a) delivers less than 95% of the quantity of the Products ordered, the Company may reject the Products; or
 - (b) delivers more than 105% of the quantity of Products ordered, the Company may at its discretion reject the Products or the excess Products, and any rejected Products shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Products ordered, and the Company accepts the delivery, a pro rata adjustment shall be made to the invoice for the Products.
- 5.11 If the Supplier requires the Company to return any packaging materials to the Supplier, that fact must be clearly stated on the delivery note accompanying the relevant Purchase Order, and any such returns shall be at the Supplier's expense.
- 5.12 Where any provision of this clause 5 is pertinent to the performance of any services, that provision shall be deemed to apply without limitation to the performance of any services by the Supplier.

6. Acceptance of the Products

- 6.1 The Company shall not be deemed to have accepted any Products until it has had a reasonable time to inspect them following delivery, or, in the case of a latent defect in the Products, until a reasonable time after the latent defect has become apparent.
- 6.2 If any Products delivered to the Company do not comply with clause 4.2, or are otherwise not in conformity with the Contract, then, without limiting any other right or remedy that the Company may have, the Company may reject those Products and:
- (a) require the Supplier to replace the rejected Products at the Supplier's risk and expense within 5 (five) Business Days of being requested to do so;
 - (b) terminate the Contract with immediate effect;
 - (c) refuse to pay the Charges for the rejected Products, without liability to the Supplier;
 - (d) where the Products have already been paid for in part or in full, require the Supplier to repay the Charges for the rejected Products in part or in full, as applicable (whether or not the Company has previously required the Supplier to replace the rejected Products); and

- (e) claim damages for any other costs, expenses or losses resulting directly or indirectly from the Supplier's delivery of Products that are not in conformity with the Contract.
- 6.3 The Company's rights and remedies under clause 6.2 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the Contract by the Sale of Goods Act 1979.
- 6.4 These Terms shall apply, without limitation, to any replacement Products supplied by the Supplier.
- 6.5 If the Supplier fails to promptly replace rejected Products in accordance with clause 6.2. (a), the Company may, without affecting its rights under clause 6.2 (e), obtain substitute products from a third party supplier and the Supplier shall reimburse the Company for the costs it incurs in doing so.
- 6.6 If the Contract requires the Supplier to provide services to the Company, any obligation of the Supplier to replace Products under this clause 6 shall additionally be deemed to impose an obligation on the Supplier to re-perform the corresponding services.

7. Risk and Title

- 7.1 The Products shall remain at the risk of the Supplier until delivery to the Delivery Location is complete (including unloading and stacking) and the Supplier has notified the Company that delivery has been completed, pursuant to the Supplier's obligations in clause 5.3. For the avoidance of doubt and where requested to do so by the Company, the Supplier shall be solely responsible for insuring the Products in accordance with the Supplier's obligations in clause 9.1 for such time as the Products shall remain at the Supplier's risk. Nothing in this clause 7.1 shall affect the Company's right to reject the Products.
- 7.2 Title to the Products shall pass to the Company upon completion and notification of delivery pursuant to the requirements of clause 7.1, unless payment for the Products has been agreed to be made prior to delivery, when title shall pass to the Company once payment has been made and the Products have been appropriated to the Contract.

8. Indemnity

- 8.1 The Supplier shall keep the Company indemnified and shall hold the Company harmless in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), losses, damages, deductions, fines, injury, costs (including costs of storage and/or disposal) and expenses (including legal and other professional fees and expenses and experts' fees) awarded against or incurred or paid by the Company as a result of or in connection with:
- (a) any breach, negligent performance or failure or delay in performing any obligation under the Contract by the Supplier, its employees, agents or subcontractors;
 - (b) any breach of any warranty given by the Supplier in relation to the Products (including, without limitation, the warranty given in clause 4.2);
 - (c) any claim made against the Company by a third party arising out of, or in connection with, the supply of the Products, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performing any obligation under the Contract by the Supplier, its employees, agents or subcontractors;

- (d) any claim made against the Company by a third party for death, personal injury or damage to property arising out of, or in connection with, defective Products, to the extent that the defect in the Products is directly or indirectly attributable to any act, omission or delay of the Supplier, its employees, agents or subcontractors, or is otherwise occasioned by the Supplier, its employees, agents or subcontractors;
 - (e) any claim that the Products infringe, or that their importation, use or resale, infringes, the Intellectual Property Rights of any third party, except to the extent that the claim arises from compliance with any Specification supplied by the Company; and
 - (f) any liability under the Consumer Protection Act 1987 in respect of the Products.
- 8.2 This clause 8 shall survive the termination or expiration of the Contract and/or the cancellation of any Purchase Order.

9. Insurance

- 9.1 If requested to do so by the Company, the Supplier shall maintain in force with a reputable insurance company, insurance coverage to cover all of the Supplier's possible liabilities to the Company which may arise under or in connection with the Contract, such insurance coverage to be to in such an amount as may be reasonably requested by the Company and to be effective for such duration as may be reasonably requested by the Company.
- 9.2 The Supplier shall, on the Company's request, produce both the insurance certificate giving details of cover (including the scope and duration of the cover) and the receipt for the current year's premium in respect of that insurance.
- 9.3 The Supplier's liabilities under the Contract shall not be deemed to be released or limited by the Supplier taking out the insurance coverage referred to in clause 9.1.
- 9.4 If the Supplier fails or is unable to maintain insurance in accordance with clause 9.1, or fails to provide evidence that it has paid the current year's premium, the Company may, so far as it is able, purchase such alternative insurance cover as it deems to be reasonably necessary and shall be entitled to recover all reasonable costs, charges and expenses it incurs in doing so from the Supplier.

10. Cancellation and Termination

- 10.1 The Company shall be entitled to cancel the Contract in respect of all or part only of the Products by giving notice in writing to the Supplier at any time prior to delivery, in which case the Company's sole liability shall be to pay to the Supplier the Charges for the Products (or part thereof) in respect of which the Company has exercised its right of cancellation, less the Company's reasonable estimate of the Supplier's net saving of cost arising from cancellation.
- 10.2 The Company shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract forthwith without liability to the Supplier if:
- (a) the Supplier commits a material breach of any of these Terms and (if such a breach is remediable) fails to remedy that breach within 14 days of being notified in writing of the breach; or
 - (b) the Supplier repeatedly breaches any of these Terms in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to these Terms; or

- (c) any distress, execution or other process is levied upon any of the assets of the Supplier, or the Supplier has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed over its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator over the Supplier or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Supplier or for the granting of an administration order in respect of the Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of the Supplier; or
- (d) any event occurs, or proceeding is taken, with respect to the Supplier under the laws of any jurisdiction to which the Supplier is subject, that has an effect equivalent or similar to any of the events or proceedings mentioned in clause 10.2 (c); or
- (e) there is any change in the identity of any person who controls the Supplier's business; or
- (f) there is any change in the type of business which the Supplier carries on, in whole or in part; or
- (g) the Supplier ceases, or threatens to cease, to carry on all or substantially the whole of its business; or
- (h) the financial position of the Supplier deteriorates to such an extent that in the reasonable opinion of the Company, the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy; or
- (i) any Force Majeure Event prevents the Supplier from performing any obligation of the Supplier under the Contract for any continuous period of fourteen (14) days.

10.3 The termination of the Contract, however arising, shall be without prejudice to the rights of the Company accrued prior to termination. Any Terms which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

11. Confidentiality, data protection and proprietary matters

11.1 Both parties 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 by one party to the other party, its employees, agents, consultants or subcontractors and any other confidential information concerning the disclosing party's business or its products which the other party may obtain. Neither party shall use any such information for any purpose other than to perform its obligations under the Contract. Either party may only disclose such information:

- (a) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out that party's obligations under the Contract; and
- (b) as may be required by law, court order or any governmental or regulatory authority.

- 11.2 Without limitation, the Supplier shall not without the prior consent of the Company in writing mention the Company's name in connection with the Contract in any publicity material or other similar communications to third parties.
- 11.3 The Supplier shall not disclose the name of any of the Company's customers to any third parties.
- 11.4 The confidentiality obligations in clause 11.1 shall apply without limitation to any third party in the supply chain and the parties shall ensure that any such third parties with whom they deal are subject to confidentiality obligations which are no less onerous than those which are set out in clause 11.1. In addition, the Supplier shall ensure that any third party with whom it deals does not mention the Company's name in any publicity material or other similar communication.
- 11.5 With respect to its obligations under the Data Protection Legislation, the Supplier acknowledges that it shall at all times:
- (a) comply with its obligations under the Data Protection Legislation in relation to its processing of any personal data disclosed to the Supplier by or on behalf of the Company or otherwise obtained by the Supplier ;
 - (b) keep such records and information as are necessary to demonstrate compliance with the Data Protection Legislation in relation to the processing of any personal data referred to in sub-clause (a) above and promptly provide them to the Company on request; and
 - (c) permit the Company to have access to the Supplier's premises, personnel and records, without notice, to the extent reasonably required for verifying compliance with the Data Protection Legislation.
- 11.6 Any Specification supplied by the Company to the Supplier, or specifically produced by the Supplier for the Company, together with any Intellectual Property Rights in the Specification, shall be the exclusive property of the Company. The Supplier must not disclose to any third party or use any such Specification without the prior written consent of the Company, except to the extent that it is or becomes public knowledge otherwise than by the Supplier's breach of its obligations under the Contract, or as required for the purpose of fulfilling an order in accordance with the Contract.
- 11.7 All materials and data provided by the Company to the Supplier in connection with this Contract shall, at all times, be and remain the exclusive property of the Company, but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to the Company and shall not be disposed of nor used other than in accordance with the Company's prior written instructions or authorisation.
- 11.8 In order to protect the value of the Company's customer contacts, the Supplier undertakes, not to directly or indirectly (including through any associated companies) solicit or accept orders on its own account from any customer of the Company neither during the existence of the Contract nor for a period of 12 months following the termination or expiry of the Contract.
- 11.9 The Supplier agrees to promptly and fully indemnify and hold the Company harmless against any liability, loss, damage, cost, charge or expense arising directly or indirectly from any breach of this clause 11.

12. Force Majeure

The Supplier shall give the Company notice with full details, promptly and in no event any later than 2 Business Days after becoming aware of any Force Majeure Event that delays or prevents the Supplier's performance of any of its obligations under the Contract. The Supplier must provide the Company with satisfactory evidence of the existence of the Force Majeure Event, by providing the Company with such

data or information as may be reasonably requested by the Company. The Company may, by written notice to the Supplier and without prejudice to any other right or remedy of the Company hereunder (including but not limited to the Company's rights under clause 10.2 (i)), cancel, reduce quantities ordered, or extend the Delivery Date for Products ordered which are affected by a Force Majeure Event. In the event of a shortage caused by a Force Majeure Event, the Supplier shall allocate its production and available inventory and resources to the Company on a no less favourable basis than any other customer of the Supplier and ahead of any orders placed after the Company's order.

13. Audit Rights

If requested by the Company, the Supplier shall instruct an independent auditor ("the Auditor") mutually agreed to by the parties to provide the Company with certification that the Supplier is complying with the Supplier's obligations contained herein. The Auditor's qualifications, experience and background shall meet such minimum standards as shall be solely prescribed by the Company, acting reasonably. All reasonable costs associated with the audit shall be borne by the Company. The Supplier shall maintain adequate records to enable the Auditor to comply with this provision.

14. Ethical Trading Policy

The Supplier agrees that the Supplier and the Supplier's employees, sub-contractors and agents (and its own suppliers) shall comply fully with the Company's Ethical Trading Policy, as amended from time to time and attached hereto as Schedule A. Non-compliance with the Policy may be considered by the Company to be a breach of the Contract.

15. Compliance with Anti-Slavery and Human Trafficking Laws and Policies

15.1 In performing its obligations under the Contract, the Supplier shall:

- (a) comply with all applicable anti-slavery and human trafficking laws, statutes and regulations from time to in force including but not limited to the Modern Slavery Act 2015; and
- (b) have and maintain for the duration of the Contract its own policies and procedures to ensure its compliance; and
- (c) not engage in any activity, practice or conduct that would constitute an offence under sections 1,2 or 4 of the Modern Slavery Act 2015; and
- (d) ensure that each of its subcontractors and suppliers shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

15.2 Without limiting the generality of clause 15.1, the Supplier shall not become engaged in any of the following activities:

- (a) forced labour;
- (b) child labour;
- (c) bonded labour (where repayment of a debt is used as a reason to force an individual to work without payment);
- (d) sexual slavery; or
- (e) human trafficking.

15.3 The Supplier shall indemnify the Company against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by the Company or awarded against the Company as a result of any breach of the Modern Slavery Act 2015 and/or any of the provisions of this clause 15.

16. Miscellaneous

16.1 The Supplier may not assign, delegate, mortgage, charge, sub-contract or otherwise transfer any or all of its rights and obligations under the Contract without the prior written consent of the Company.

16.2 The Company may assign the Contract or any part of it to any person, firm or company and may sub-contract or otherwise transfer any or all of its rights and obligations under the Contract to any person, firm or company.

16.3 If any provision (or part of a provision) of these Terms is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

16.4 No failure or delay by either party in exercising any right, power or privilege under the Contract will impair or operate as a waiver of the same, nor will any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege.

16.5 Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and for the attention of the person specified by the relevant party by notice in writing to the other party. Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address and for the contact referred to above or, if sent by pre-paid 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.

16.6 No third party shall be entitled to enforce any of the terms of the Contract under the Contracts (Rights of Third Parties) Act 1999.

16.7 The Purchase Order and these Terms contain the whole agreement between the parties and supersede and replace any prior written or oral agreements, representations or understandings between them. The parties confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Purchase Order or these Terms.

16.8 Any dispute arising under or in connection with the Contract shall be solely and finally settled by arbitration in accordance with the London Court of International Arbitration ("LCIA") Rules.

16.9 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English Courts.

SCHEDULE A

ETHICAL TRADING POLICY

The Company strives to ensure that our suppliers' workforce, who produce our products, are provided with good working conditions. This drive supports our core brand value of trust; our customers expect high standards and trust us to work ethically.

In addition, we understand that when people are treated with respect, work in decent conditions and earn fair rates of pay, both they and their companies benefit from increased commitment and productivity. Ultimately, our customers benefit too, from better quality, better value products and peace of mind.

We achieve these objectives by developing agreed standards with our suppliers, supported by site visits and a policy of continual improvement. Strict sanctions are applied when standards are not met.

We are determined to do everything we can to bring fair sourcing principles to our supply chain.

These principles require all our contracted suppliers – i.e. those with whom we have a direct contract for goods – to ensure that their facilities and workplace practices meet acceptable standards and are continually improving. It is the supplier's responsibility to achieve and maintain these standards.

The people working for our suppliers are to be treated with respect, and their health, safety and basic human rights must be protected and promoted. Each supplier must strive to comply with all relevant local and national laws and regulations and where applicable, international standards, particularly with regard to:

- Minimum age of employment
- Freely chosen employment
- Health and Safety
- Freedom of association and the right to collective bargaining
- No discrimination
- Discipline
- Working hours
- Rates of pay
- Terms of employment
- Environmental Management

Suppliers must apply these principles at all times, and must also be able to demonstrate that they are doing so. We will work with suppliers to support any necessary improvements but we will also take action, which may involve cancelling contracts and ceasing to trade, if suppliers are not prepared to make appropriate changes.

In conducting business, the Company operates in an open and transparent way, seeking to agree contracts and ways of working that are in the best mutual interest of customers, the Company and its suppliers. The Company does not offer or accept bribes in any form and is committed to trading honestly, fairly, with integrity and in compliance with the Bribery Act 2010.

Our suppliers must never use or attempt to use their position to obtain any improper personal benefit for themselves, or for any other person. In particular, our suppliers must:

- refrain from offering any business courtesies to the Company where refusal could cause discomfort or embarrassment to the supplier or the Company;
- refrain from unethical or compromising practices in relationships, actions or communications;
- refrain from accepting money in any form, gifts over a nominal value, special hospitality, or other financial benefits that may influence any decision; and
- ensure that any expenditure incurred in connection with any current or future transactions with the Company is transparent, recorded and duly incurred in the ordinary course of business.

Any supplier who is aware of a conflict of interest or is concerned that a conflict may develop must discuss the matter with the Company as soon as possible.

Our suppliers shall be obliged to apply principles and standards which are no less onerous than those set out in this Policy to their own suppliers. We reserve the right to audit our suppliers' own suppliers in this context and our suppliers shall furnish us with all reasonable cooperation and assistance in connection with any such audit.