

TRV Group – General Terms

These general terms apply to all orders from TRV Group companies except for purchases by “consumers” (i.e. they apply to purchases by or on behalf of e.g. governments, businesses, charities/organisations). For consumer terms ask your TRV contact.

These terms apply except to the extent otherwise agreed in writing; but subject always to clauses 4 (h) and 7(b) in relation to delivery dates/performance dates.

Revised: 7 April 2020

General Terms

1. **1. INTERPRETATION**

Definitions. In these Conditions, the following definitions apply:

 - a. **Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
 - b. **Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 14.f.
 - c. **Consumer** has the meaning given in the Consumer Rights Act 2015.
 - d. **Contract:** the contract between the Supplier and the Customer for the sale and purchase of the Goods and/or Services in accordance with these Conditions.
 - e. **Customer:** the person or firm who purchases the Goods and/or Services from the Supplier.
 - f. **Force Majeure Event:** has the meaning given in clause 13.
 - g. **Goods:** the goods (or any part of them) set out in the Order.
 - h. **Order:** the Customer's order for the Goods and/or Services, as set out in the Customer's purchase order form or the Customer's acceptance of the Supplier's quotation, as the case may be. (disregarding any reference to the Customers terms which shall be deemed not to be part of the Order).
 - i. **Services:** the services, including any installation services, supplied by the Supplier to the Customer as set out in the Order and/or Specification.
 - j. **Specification:** any specification for the Goods and/or Services that is agreed in writing by the Customer and the Supplier.
 - k. **Supplier:** The company identified in a quote (where one is supplied) or invoice, as the case may be. If a different company is named on the invoice to the quote and this is a concern please raise the matter with your contact within two Business Days of receipt failing which the company named on the invoice shall be the Supplier.
 - l. **TRV Group:** means T.R. Ventures Limited (company no. 07757720), TRV Projects Limited (company 05768633), Daze Neon Limited (company no 12529181) and each of their parent undertakings, and each subsidiary undertaking of each such parent undertaking from time to time.
 - m. **Warranty Period:** the warranty period in respect of each item of Goods specified in writing by the Supplier to the Customer (being a period from the date of delivery of the relevant Goods).
 - n. **Construction.** In these Conditions, the following rules apply:
 - i. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
 - ii. A reference to a party includes its personal representatives, successors or permitted assigns.
 - iii. A reference to a statute or statutory provision is a reference to such statute or 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.
 - iv. 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.
2. **2. BASIS OF CONTRACT**
 - a. 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.
 - b. The Order constitutes an offer by the Customer to purchase the Goods and/or Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
 - c. The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, or a delivery note, or treats it as accepted, at which point the Contract shall come into existence.
 - d. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.
 - e. A quotation for the Goods and/or Services given by the Supplier shall not constitute an offer. Unless otherwise agreed by the Supplier a quotation shall only be valid for a period of 20 Business Days from its date of issue.
 - f. 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. **3. DESCRIPTION AND SPECIFICATION**
 - a. Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's website, catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. Unless and to the extent that technical specification is set out in a Specification or Purchase Order, it shall not form part of the Contract nor may they be relied upon.
 - b. The Supplier may deliver Goods or perform Services in variance with the Specification if and to the extent required by any applicable statutory or regulatory requirements.
 4. **4. DELIVERY OF THE GOODS; ACCEPTANCE**
 - a. Goods are always made available for collection “ex works” the TRV Group’s warehouse in Trafford Park, Manchester UK or occasionally such other location within the UK or overseas as the Supplier may specify. It is the responsibility of the Customer to collect or arrange pickup of the goods “ex works”. See clause 6 (a) for details of when risk in the goods passes.
 - b. If the Supplier delivers or arranges delivery whether using its own vehicle or a third party courier or logistics provider Supplier accepts responsibility (if Supplier itself delivers) for delivering to what reasonably appears to be the correct address or (if using a third party courier or logistics provider) passing on the correct address (as supplied by Customer) to the third party. In all other respects if Supplier delivers or arranges delivery it does so as a volunteer on a without liability basis, even if the cost of the service is charged for, or recharged, and whether with or without margin. If Customer does not accept this allocation of risk, it must collect any goods in person or arrange collection itself.
 - c. The Supplier shall seek to ensure that each delivery of the Goods is accompanied by a delivery note.
 - d. Goods shall be deemed delivered when collected ex works or loaded into the Supplier’s own transportation

- ex works, or handed over to a third party courier or logistics provider ex works or in any event seven days after being made available for collection.
- e. The Customer is put on notice that it is the custom and practice of courier and logistics providers not to require persons signing for deliveries to identify themselves or demonstrate actual or apparent authority to accept delivery. Without prejudice to sub-clause (a) and (b) above, Supplier specifically disclaims responsibility for a third party courier or logistics provider losing the goods, delivering to the wrong address, allowing someone not authorised to do so to sign for the goods, or returning the goods to depot for any reason.
- f. The Customer shall not be entitled to reject the Goods on the grounds of incorrect quantity if the Supplier delivers up to and including 2% more or less than the quantity of Goods ordered. If the quantity delivered is incorrect within this band the Customer shall instead notify Supplier of the deficiency and (in the case of excess) shall hold the same safely stored pending collection by Supplier.
- g. The Supplier may deliver the Goods by instalments, which may be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel or dispute any other instalment or related invoice.
- h. The Supplier shall use reasonable endeavours to meet any delivery dates for the Goods specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for delivery of the Goods. The only exception is hard delivery dates agreed by Tom Ralston as a director of the company as noted in an agreed Order with the additional words "time is of the essence". No other person has authority to agree a hard delivery date. Even where a hard delivery date is agreed (i) clause 13 (Force Majeure) still applies; and (ii) the Supplier shall not be responsible for delays nor deemed to be in default if any part of the delay is caused in whole or in part by the default of the Customer or any of its representatives, or third parties, or late changes (even if agreed by Supplier).
- i. 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, save that 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 breach by Customer, including Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- j. If the Customer fails to take or accept delivery of the Goods (except where such failure or delay is caused by a Force Majeure Event or the Supplier's unremedied failure to comply with its obligations under the Contract) or the Goods are turned to Supplier due to inability to deliver, then the Supplier may place the Goods in storage, the costs of which shall be paid by the Customer on demand, and at the end of 30 days may dispose of the Goods or (at the Supplier's election) put them back into inventory for resale and in either case no refund shall be due to Customer and any invoice for the Goods shall remain payable in full without deduction together with any storage charges.
- k. Where a person other than Supplier conducts a survey, provides measurements, or fits or installs the Goods, that person (not Supplier) shall be responsible for their work (and any loss or damage caused by their default), and for ensuring that the cost of their work does not exceed any quote supplied even if Supplier has introduced the person to Customer or sent a quote for their work together with, or incorporated a quote for their work in, a quote provided by the Supplier. No such third party is the agent of the Supplier.
- i. Customer will test the Goods on or shortly after delivery. If Customer believes they do not comply with technical specification and applicable standards will inform the Supplier of the defect/alleged defect within 14 days. If Customer accepts the goods but does not raise an objection within 14 days then they will be deemed to so conform.
- 5. QUALITY**
- a. The Supplier warrants that on delivery, and for the relevant Warranty Period, the Goods shall:
- i. conform in all material respects with their description (as modified by a Specification);
 - ii. be free from material defects in design, material and workmanship;
 - iii. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - iv. be fit for any purpose held out by the Supplier.
- b. Subject to clause 5.d, if:
- i. the Customer gives notice in writing to the Supplier during the relevant Warranty Period as soon as practicable following discovery that some or all of the Goods do not comply with the warranty set out in clause 5.a (and in any event within 14 days of discovery);
 - ii. the Supplier is given a reasonable opportunity of examining such Goods; and
 - iii. the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's reasonable cost,
- c. the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- d. The Supplier shall not be liable for Goods' failure to comply with the warranty set out in clause 5.a in any of the following events:
- i. the Customer makes any further use of such Goods after giving notice in accordance with clause 5.b;
 - ii. the defect arises because the Customer failed to follow the Supplier's or manufacturer's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - iii. the defect arises as a result of the Supplier following any requirement set out in any applicable Specification supplied by the Customer;
 - iv. the Customer alters or repairs such Goods without the written consent of the Supplier;
 - v. the defect arises as a result of fair wear and tear, wilful damage, negligence, exposure to heat or vibrations outside the tolerance levels of the Goods, exposure to corrosive chemicals, salt/salty air, power surges or electrical supply at an incorrect voltage or abnormal storage or working conditions or any similar circumstances; or
 - vi. the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- e. It is to be expected that there is a natural deterioration in the brightness or colour trueness of LED tape throughout its lifetime. This is not a warranty issue. Similarly, failures of up to 1% of the individual transistors in LED tape is within the expected tolerance for tape and this is also not a warranty issue.

- f. If the Goods were supplied on a “goods only” basis and the Supplier did not perform and charge for installation, then the warranty shall be to provide replacement goods or a refund only. If the Goods were supplied together with installation and/or commissioning services the warranty shall extend to re-installation and recommissioning but (unless specifically agreed otherwise in writing) not consequent or incidental costs such as the cost of providing or hiring platforms/scaffolding or the cost of downtime or the provision of other trades and specialists.
- g. If the Customer alleges that Goods are non-conforming, or defective, or otherwise do not function as described and Supplier attends the Customer’s premises or the installation site to investigate and/or repair the same and there is found to be no non-conformity or defect; or any such non-conformity or defect is only part of the problem; or is caused by installation (not carried out by the Supplier); or other equipment (not provided by the Supplier), then the Customer will indemnify Supplier against the fair proportion of all costs incurred by the Supplier in attending the premises including travel, accommodation, labour (regular and/or overtime).
- h. Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.a.
- i. 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.
- j. These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier. Any Warranty Period is not “refreshed” by any repair or replacement but runs from the original supply date.

6. TITLE AND RISK

- a. The risk in the Goods shall pass to the Customer on delivery as defined in clause 4(d). Notwithstanding any installation of the Goods, title to the Goods shall not pass to the Customer until the earlier of:
 - i. the Supplier receives payment in full (in cash or cleared funds) for the Goods; and
 - ii. the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6(d).
- b. Until title to the Goods has passed to the Customer, the Customer shall:
 - i. store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - ii. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - iii. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - iv. notify the Supplier immediately if it becomes subject to any of the events listed in clause 10.b; and
 - v. give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- c. Subject to clause 6(e), 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:
 - i. it does so as principal and not as the Supplier’s agent; and
 - ii. title to the Goods shall pass from the Supplier to the Customer immediately

- d. before the time at which resale by the Customer occurs.
- e. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 10(b)(ii)-(xiii) then, without limiting any other right or remedy the Supplier may have:
 - i. the Customer’s right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - ii. the Supplier may at any time:
 - 1. require the Customer to deliver up all Goods in its possession which have not been resold; and
 - 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.
- f. If when the proceeds of sale of the Goods are received by Customer any amount shall be owing from the Customer to the Supplier the same amount shall be held from the proceeds of sale on trust and paid over to the Supplier on demand. The Supplier may at any time direct that the proceeds of sale are paid into a separate account for identification purposes.
- g. Without prejudice to (f) above the Customer assigns such amount of the proceeds of sale as is equal to any amount from time to time owing by the Customer to the Supplier and agrees to make the assignment a legal assignment by giving notice under s.136 of the Law of Property Act 1925, failing which the Customer may give notice as agent for the Customer (and is hereby irrevocably appointed as the Customer’s agent to do so) and further agrees that the Customer may direct any customer of the Customer to pay over amounts owing by Customer to Supplier directly.

7. Supply of Services

- a. The Supplier shall supply the Services to the Customer shall be in all material respects in accordance with the Specification.
- b. The Supplier shall use 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. The only exception is hard delivery dates agreed by Tom Ralston as a director of the company as noted in an agreed Order with the additional words “time is of the essence”. No other person has authority to agree a hard delivery date. Even where a hard delivery date is agreed (i) clause 13 (Force Majeure) still applies; and (ii) the Supplier shall not be responsible for delays nor deemed to be in default if any part of the delay is caused in whole or in part by the default of the Customer or any of its representatives, or third parties, or late changes (even if agreed by Supplier).
- c. 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.
- d. The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

8. Customer’s Obligations

- a. The Customer shall:
 - i. ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
 - ii. co-operate with the Supplier in all matters relating to the Services;
 - iii. provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer’s premises,

- office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- iv. provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Goods and/or Services, and ensure that such information is complete and accurate in all material respects;
- v. prepare the Customer's premises for the supply of the Services;
- vi. obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- vii. comply with all applicable laws when the Supplier is in attendance at its premises, including health and safety laws;
- viii. keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and
- ix. comply with any additional obligations as set out in the Order and/or Specification.
- b. 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**):
 - i. without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend delivery of Goods and/or 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;
 - ii. 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.b; and
 - iii. 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 (including any breach of the obligations in clause 8(a)).
- c. If the Customer alleges that the Services have not been supplied in conformity with the standards required by clauses 7 (a) or (b) and the Supplier attends the Customer's premises or the installation site to investigate and resolve the problem and there is found to be no non-conformity or problem; or any such non-conformity or problem is only part of a wider problem; or is caused by work or services not carried out by the Supplier; or other goods not provided by the Supplier, then the Customer will indemnify Supplier against the fair proportion of all costs incurred by the Supplier in attending the premises including travel, accommodation, labour (regular and/or overtime).
- d. Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.a.

9. **9. PRICE AND PAYMENT**
- a. The price of the Goods and/or Services shall be the price set out in the Order (as agreed by the Supplier), or, if no price is quoted:
 - i. the price of the Goods shall be as set out in the Supplier's then current price list; and
 - ii. the price of the Services shall be calculated in accordance with the Supplier's daily fee rates, as set out in the Supplier's then current price list.
 - b. The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods and/or Services to reflect any increase in the cost of the Goods and/or Services that is due to:
 - i. 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);
 - ii. any request by the Customer to change the delivery date(s), quantities or types of Goods and/or Services ordered, or the Specification; or
 - iii. any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
 - c. The price of the Goods shall include all duties, levies or other costs of importing but shall exclude the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.
 - d. If Supplier has made an obvious pricing error .e.g. it has listed something for 10.00 pence instead of £10.00. then Supplier has a right to cancel an Order (right the way up to the time it would be delivered or collected). Similarly if Supplier accidentally delivers the wrong Goods then Customer must tell the Supplier and Supplier at its election will collect wrongly delivered Goods from Customer (at Supplier's cost).
 - e. The price of the Goods and/or Services is exclusive of amounts in respect of value added tax (**VAT**). 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 Goods and/or Services.
 - f. The Customer acknowledges that, if the Goods are bespoke, customised, adapted or assembled to a specific design, then once the Supplier orders parts and/or begins to build and assemble the Goods they will not be able to disassemble or resell the Goods to any third party.
 - g. The Customer shall pay the invoice in full and in cleared funds by the date specified on the invoice or, where no date is specified, within 30 days of the date of the invoice. Time of payment is of the essence.
 - h. If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above NatWest Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
 - i. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
10. **10. TERMINATION AND SUSPENSION**
- a. If the Customer becomes subject to any of the events listed in clause 10.b, the Supplier may terminate the

- Contract with immediate effect by giving written notice to the Customer.
- b. For the purposes of clause 10.a, the relevant events are:
- i. the Customer 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;
 - ii. the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
 - iii. the Customer 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;
 - iv. (being a company) 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 Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - v. (being a company) 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 Customer;
 - vi. (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
 - vii. a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
 - viii. (being an individual) the Customer is the subject of a bankruptcy petition or order;
 - ix. a creditor or encumbrancer of the Customer 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;
 - x. any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.b.i to clause 10.b.vii (inclusive);
 - xi. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
 - xii. the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations

- xiii. under the Contract has been placed in jeopardy; and (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- c. Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods and/or Services under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 10.b.i to clause 10.b.xiii, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment. Any such termination or suspension shall not amount to a breach by Supplier.
 - d. On termination of the Contract (save for and to the extent of lawful termination following Supplier default) the Customer shall pay for all Goods and Services supplied or to be supplied in full, and any interest due, without deduction or withholding.
 - e. Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
 - f. Clauses which expressly or by implication survive termination of the Contract (including the Supplier's right to indemnity) shall continue in full force and effect.
- 11. LIMITATION OF LIABILITY**
- a. Nothing in these Conditions shall limit or exclude the Supplier's liability for:
 - i. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - ii. fraud or fraudulent misrepresentation;
 - iii. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - iv. defective products under the Consumer Protection Act 1987;
 - v. any other liability to the extent it cannot be lawfully excluded or limited.
 - b. Subject to clause 11.a:
 - i. the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of anticipated savings, damage to reputation, or any indirect or consequential loss arising under or in connection with the Contract; and
 - ii. the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods and or Services that has been paid or payable by the Customer to the Supplier.
- 12. INTELLECTUAL PROPERTY RIGHTS**
- a. All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
 - b. All Intellectual Property Rights in any designs of the Goods and any Specification, including any bespoke designs or plans or drawings, shall be owned by the Supplier.
 - c. Where Goods are designed, adapted or manufactured according to a Customer specification, the Customer warrants to Supplier that the designs and the

manufacture of the Goods will not infringe any third party Intellectual Property Rights and if any third party alleges the Goods are infringing or brings or threatens to bring a claim then Customer will pay Supplier on an as incurred basis for all costs (including legal and professional costs) incurred in investigating, taking advice on and defending any such claim and for any damages, costs, charges and expenses awarded.

13.

13. FORCE MAJEURE

- a. The Supplier shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond the Supplier's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, port/customs delays, default of suppliers or subcontractors (including refusal or inability of them to honour contractual commitments to us), acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions.

14.

14. GENERAL

- a. **Assignment and other dealings.**
- i. The Supplier may at any time assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- ii. The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.
- b. **Notices.**
- i. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, Royal Mail Special Delivery, or tracked commercial courier, with (where an email address has been provided by the recipient/addressee) a copy by email to the email address so provided.
- ii. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.b.i; if sent by Royal Mail Special Delivery or tracked commercial courier, when recorded as delivered (or recorded as delivery impossible and recipient notified).
- iii. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- c. **Severance.**
- i. 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.

ii.

If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

- d. **Waiver.** A waiver of any right or remedy under the Contract shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- e. **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- f. **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Supplier.
- g. **Governing law.** 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 law of England and Wales.
- h. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual