



BURG WÄCHTER UK LTD

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TERMS OF CONDITIONS OF SALE

1. Interpretation

1.1 Definitions:

Business Day a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Conditions these terms and conditions as amended from time to time.

Contract the contract between the Company and the Buyer for the sale and purchase of Goods, comprising these Conditions together with the Buyer's Order in a form accepted by the Company.

Buyer the person or firm which purchases the Goods from the Company.

Delivery Location has the meaning given in clause 5.2.

Force Majeure Event shall have the meaning given in clause 12.

Goods the goods or any part of them (together with any related services) which the Buyer agrees to buy from the Company and which the Company agrees to sell to the Buyer, as specified in an Order, in a form accepted by the Company or as otherwise agreed by the Company.

Intellectual Property Rights patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in software, database rights, rights to use and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.

Order the Buyer's order for the Goods, as set out in the Buyer's purchase order form or raised via email or verbally, as the case may be.

Company Burg-Wachter UK Ltd, registered in England and Wales with company number 02199096 whose registered office address is at Unit 3 Eurocam Technology Park, Chase Way, Bradford, West Yorkshire, BD5 8HW.

1.2 Interpretation

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 and permitted assigns.

1.2.3 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2.4 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.5 A reference to writing or written includes email.

2 Basis of Contract

2.1 These Conditions apply to the Contract, to any supply of Company goods and to any Order raised by the Buyer, to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order are complete and accurate.

2.3 The Order shall only be deemed accepted when the Company issues its invoice for the Goods or dispatches the Goods for delivery or confirms a written acceptance of the Order to the Buyer, whichever is soonest, at which point, the Contract shall come into existence.

2.4 The Buyer waives any right it might have to rely on any term endorsed on, delivered with, contained or referred to in any documents of the Buyer (including any Order), except as expressly agreed in writing by the Company. If the Company agrees to any special terms, the same shall be expressly set out in writing by the Company in which case such special terms shall prevail over these Conditions.

2.5 Any quotation given by the Company shall not constitute an offer. Any quotation given shall only be valid for 30 days from its date of issue.

2.6 Any samples, drawings or advertising produced by the Company and any illustrations in the Company's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the goods referred to in them. They shall not form part of the Contract nor have any contractual force.

2.7 Once a Contract is formed, the Buyer may cancel the Order only with the written agreement of the Company and the Buyer will indemnify the Company against all costs, expenses, claims and losses incurred prior to or arising from the Order cancellation.

3 Trade accounts

3.1 Except as otherwise expressly agreed by the Company, the Company will only deal with the Buyer where the Buyer has a trade account with the Company.

3.2 To open a trade account, a Buyer must complete an account application form. The Buyer must provide all relevant, accurate application details.

3.3 The Company is not obliged to accept any Buyer for a trade account. Acceptance is entirely at the Company's discretion and subject to appropriate checks.

3.4 The Company reserves the right to consult third parties as necessary and at any time, for trade and credit references and will record that information.

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- 3.5 The Company reserves the right to vary, close or suspend any trade account as it may determine, with or without reason. Without affecting the generality of the foregoing, the Company reserves the right to vary, close or suspend any trade account if it reasonably believes there is material deterioration in Buyer creditworthiness.
- 3.6 The Company may stipulate conditions for any trade account as it determines including credit limits or payment terms and may vary them at any time. By placing any Order, the Buyer agrees to such stipulated conditions which will be incorporated into each Contract and these Conditions will be deemed varied accordingly.
- 3.7 The Company shall not be obliged to accept any Order and may refuse or otherwise not supply in response to, any Order at any time as it determines. This applies whether a Buyer has a trade account or not. This right is in addition to the Company's rights referred to in clauses 4.4 to 4.6 inclusive.
- 3.8 Granting of trade credit is entirely at the Company's discretion.
- 3.9 Where the Company agrees to open a trade account, it will issue a customer account number which the Buyer must use each time it places an Order.

4 Goods

- 4.1 The Goods are described in the Company's catalogue but such information is provided for the sole purpose of giving an approximate idea of the Goods only and the Buyer is responsible for ensuring that it accurately describes the goods it intends to purchase when placing an Order.
- 4.2 The Company reserves the right to amend the description or specification of the Goods if required by any applicable statutory or regulatory requirements.
- 4.3 If the Company becomes aware of an error in its catalogue relating to Goods description or pricing, it will aim to notify the Buyer where such error is relevant to an Order but in the event of any such errors, the Company reserves the right to cancel any such Order. If an error, including as to pricing is obvious and could reasonably have been recognised by the Buyer as such, the Company will not be liable for any reliance by the Buyer on such information.
- 4.4 The availability of goods and stock levels held by the Company may vary from time to time and the Company gives no guarantee or assurance that goods which are shown in its catalogue or brochure or referenced in its price list will be available for supply at any time whether in whole or in part. The Company also reserves the right to discontinue any goods at any time and does not undertake to update its catalogue, brochures or price lists. In the event that an Order is received by the Company but in respect of which it is unable to supply goods (whether in whole or in part), nothing shall oblige the Company to accept such Order or supply such goods and in such circumstances;
 - 4.4.1 where the full scope of the Buyer's Order cannot be fulfilled due to goods being out of stock, discontinued or similar, then no Contract shall be formed (such that no invoice will be issued or goods dispatched, taking account of clause 2.3); or
 - 4.4.2 where the Buyer's Order can be fulfilled only in part, the Contract shall be formed in respect of those Goods which are available for supply only.

- 4.5 Nothing in clause 4.4 shall affect the Company's right to deliver Goods in instalments in accordance with clause 5.11.
- 4.6 Given the nature of the Company's business, in the event that an Order is received in respect of which any goods are out of stock, discontinued or otherwise not available for supply, the Company shall not be obliged to notify the Buyer of that fact and the Company reserves the right simply not to dispatch the relevant goods or part thereof or otherwise not accept the Order as the case may be, whether it has notified the Buyer as to the lack of availability or discontinuation of the goods or not.

5 Delivery

- 5.1 The Company shall ensure that each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the contract number, the type and quantity of the Goods (including the code number of the Goods, where applicable).
- 5.2 The Company shall deliver the Goods to the location set out in the Order or such other location as the parties may agree in writing (Delivery Location).
- 5.3 Delivery is completed when the Goods are tendered for delivery at the Delivery Location by the Company (or its third party delivery service provider).
- 5.4 Where the Delivery Location is to be the Company's premises such that the Buyer will collect the Goods, collection arrangements must be agreed in advance with the Company. Collection of the Goods is only permitted where expressly agreed to by the Company.
- 5.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.
- 5.6 The Company shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. In such circumstances, the Company reserves the right to extend any indicated time for delivery by such period as the Force Majeure Event continues or as caused due to inadequate instruction and may also increase the price of the Goods as relevant to take account of the Force Majeure Event or the failure of the Buyer to provide adequate instructions in accordance with this clause 5.6.
- 5.7 Subject at all times to clauses 4.4 to 4.6, if once the Company has accepted an Order and a Contract is formed in accordance with clause 2.3, the Company then fails to deliver the Goods due to its default, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods and the Company shall have no other liability whatsoever. For the avoidance of doubt, nothing in this clause 5.7 is intended in any way to affect the Company's rights set out in clauses 4.4 to 4.6 to not accept an Order or supply goods in the circumstances referred to in those clauses.
- 5.8 The Company shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.9 If the Buyer fails to accept delivery of the Goods within three Business Days of the Company first tendering the Goods for delivery then, except where such failure or delay is caused by a Force Majeure Event or the Company's failure to comply with its obligations under the Contract:

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5.9.1 delivery of the Goods shall be deemed to have been completed at 9:00 am on the fourth Business Day after the day on which the Company first sought to deliver the Goods; and

5.9.2 the Company shall store the Goods until delivery takes place and charge the Buyer for all related costs and expenses (including insurance).

5.10 If the Buyer fails to take delivery of the Goods, the Company may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Buyer for any shortfall below the price of the Goods.

5.11 The Company may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

5.12 The Buyer must notify the Company immediately on becoming aware of any non-delivery of the Goods and in any event by no later than 7 days following the date of invoice.

6 Quality

6.1 The Company warrants 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; and

6.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

6.2 Subject to clause 6.3, provided that:

6.2.1 the Buyer gives notice to the Company in writing at its registered office that some or all of the Goods do not comply with the warranty set out in clause 6.1 in accordance with the following;

6.2.1.1 in the case of any damage in transit, notice to be given by no later than forty-eight hours from the time of delivery;

6.2.1.2 in the case of defects apparent on visual inspection, notice to be given by no later than one month from delivery;

6.2.1.3 in the case of defects not apparent until the Goods are put into use, notice to be given by no later than two months from the date of delivery; and

6.2.2 the Company is given a reasonable opportunity of examining such Goods prior to any further use of the Goods following notification of the alleged defect; and

6.2.3 the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Buyer's cost or if return is not practicable, the Company may at the Buyer's cost, inspect the Goods at the Buyer's place of business or such other location as the Company may agree to;

6.2.3.1 the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

6.3 The Company shall not be liable for the Goods' failure to comply with the warranty set out in clause 6.1 in any of the following events:

6.3.1 the Buyer makes any further use of such Goods after giving notice in accordance with clause 6.2;

6.3.2 the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, use and maintenance of the Goods or (if there are none), good trade practice regarding the same;

6.3.3 the Buyer alters or repairs such Goods without the prior written consent of the Company;

6.3.4 the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal storage or working conditions; or

6.3.5 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

6.4 Except as provided in this clause 6, the Company shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.

6.5 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.

6.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Company.

6.7 Nothing in this clause 6 is intended in any way to affect any end user guarantee as may be provided with any particular type of Goods and the details of which may be as specified in any accompanying information with the relevant Goods.

6.8 The Buyer should satisfy itself that the Goods are suitable for any particular purpose for which it purchases the Goods including as to any samples made available by the Company.

7 Title and Risk

7.1 The risk in the Goods shall pass to the Buyer on completion of delivery and the Buyer is advised to insure the Goods thereafter against all risks which a prudent businessperson may insure against.

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

7.2.1 the Company receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Company has supplied to the Buyer, in which case title to the Goods shall pass at the time of payment of all such sums; and

7.2.2 the Buyer resells the Goods, in which case title to the Goods shall pass to the Buyer at the time specified in clause 7.4.

7.3 Until title to the Goods has passed to the Buyer, the Buyer shall:

7.3.1 hold the Goods as the Company's fiduciary agent and bailee;

7.3.2 store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Company's property;

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

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- 7.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full replacement value from the date of delivery with a reputable insurer;
 - 7.3.5 notify the Company immediately if it becomes subject to an Insolvency Event as defined in clause 11.1.3 ; and
 - 7.3.6 give the Company such information as the Company may reasonably require from time to time relating to:
 - 7.3.6.1 the Goods; and
 - 7.3.6.2 the ongoing financial position of the Buyer.
 - 7.4 Subject to clause 7.5, the Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Company receives payment for the Goods. However, if the Buyer resells the Goods before that time:
 - 7.4.1 it does so as principal and not as the Company's agent; and
 - 7.4.2 title to the Goods shall pass from the Company to the Buyer immediately before the time at which resale by the Buyer occurs; and
 - 7.4.3 the Buyer shall account to the Company for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, shall hold all proceeds of sale of the Goods on trust for the Company and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and shall not pay them into an overdrawn bank account.
 - 7.5 At any time before title to the Goods passes to the Buyer;
 - 7.5.1 the Company may by notice in writing, terminate the Buyer's right to resell the Goods and the right to sell or use them in the ordinary course of its business, ceases immediately; and
 - 7.5.2 require the Buyer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored (with or without vehicles) in order to recover them and the Buyer shall be responsible for procuring all third party consents as the Company may require in order to give effect to this clause 7.
- 8 Price and Payment**
- 8.1 The price of the Goods shall be the price in the Company's published price list in force as at the date of delivery except as otherwise expressly agreed in writing by the Company.
 - 8.2 Except where the price is expressly stated by the Company in respect of any Contract to be fixed and except where delivery takes place within any time period specified for such fixed price to remain valid, the Company may, by giving notice to the Buyer before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods due to:
 - 8.2.1 any factor beyond the Company'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 Buyer to change the delivery date(s), quantities or types of Goods ordered; or
 - 8.2.3 any delay caused by any instructions of the Buyer or failure of the Buyer to give the Company adequate or accurate information or instructions.
 - 8.3 The price of the Goods:
 - 8.3.1 excludes value added tax (VAT), which the Buyer shall additionally be liable to pay to the Company at the prevailing rate, subject to the receipt of a valid VAT invoice and the Company reserves the right to raise an invoice for additional VAT on a supply of Goods at any time, if the Company has raised and the Buyer has paid an earlier invoice for a lesser amount of VAT or, no VAT;
 - 8.3.2 excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Buyer.
 - 8.4 The Company may invoice the Buyer for the Goods on or at any time after acceptance by the Company, of the Buyer's Order.
 - 8.5 The Buyer shall pay each invoice submitted by the Company:
 - 8.5.1 within 30 days following the end of the month in which the invoice is raised or otherwise in accordance with any credit terms agreed by the Company and confirmed in writing to the Buyer; and
 - 8.5.2 in full and in cleared funds to a bank account nominated in writing by the Company; and
 - 8.5.3 time for payment shall be of the essence of the Contract.
 - 8.6 If the Buyer fails to make a payment due to the Company under the Contract by the due date, then, without limiting the Company's remedies under clause 11 (Termination):
 - 8.6.1 the Company may charge the Buyer interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 8.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and/or
 - 8.6.2 the Company may demand payment of all invoices (whether the due date for payment has passed or not) and whether under this Contract or any other contract with the Buyer; and/or
 - 8.6.3 cancel the Contract or suspend any further deliveries to the Buyer; and/or
 - 8.6.4 cancel any other contract in place between the Buyer and the Company and suspend and/or cancel any deliveries thereunder; and/or
 - 8.6.5 appropriate any payment made by the Buyer to such of the Goods (or goods supplied under any other contract between the Buyer and the Company) as the Company may think fit (notwithstanding purported appropriation by the Buyer).
 - 8.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

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- 8.8 Any deductions or discount the Company may in its discretion offer from time to time, shall be conditional in all cases on all invoices being paid on the due date for payment and no deduction or discount may be deducted from any sum in respect of VAT.
- 8.9 The Company reserves the right to operate a minimum Order value to be able to offer delivery free of charge but nothing shall oblige the Company to make any such offers.

9 LIMITATION OF LIABILITY

NOTE: THE BUYER'S ATTENTION IS DRAWN IN PARTICULAR, TO THIS CLAUSE 9.

- 9.1 Nothing in the Contract limits or excludes any liability of the Company which cannot legally be limited or excluded, including liability for:
- 9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 9.1.2 fraud or fraudulent misrepresentation;
 - 9.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - 9.1.4 defective products under the Consumer Protection Act 1987.
- 9.2 Subject to clause 9.1, under no circumstances shall the Company be liable for any losses, costs, claims, expenses, liabilities or damages suffered by the Buyer (or any person claiming under or through the Buyer), whether in contract, tort (including negligence), for breach of statutory duty or otherwise howsoever arising in respect of:
- 9.2.1 direct loss of profit;
 - 9.2.2 indirect loss of profit;
 - 9.2.3 direct loss of anticipated savings;
 - 9.2.4 indirect loss of anticipated savings;
 - 9.2.5 loss of revenue;
 - 9.2.6 loss of sales or business;
 - 9.2.7 loss of agreements or contracts;
 - 9.2.8 loss of anticipated savings;
 - 9.2.9 loss of use or corruption of software, data or information;
 - 9.2.10 loss of or damage to goodwill or damage to reputation;
 - 9.2.11 any special, indirect or consequential damage or loss;
- 9.2.11.1 and the parties agree that the sub-clauses of this clause 9.2 shall be distinct and severable.
- 9.3 Subject to clauses 9.1 and 9.2, the Company's total liability under or in connection with the Contract whether in contract, tort (including negligence) for breach of statutory duty or otherwise howsoever arising shall not exceed a sum equal to twice the invoice value of the Goods supplied or to be supplied under that Contract. The Buyer is advised to maintain appropriate insurance to cover excess amounts.
- 9.4 The exclusions and limitations in this clause 9 apply to the fullest extent permitted by law.

- 9.5 This clause 9 shall survive termination or expiry of the Contract.

10 Intellectual Property Rights

- 10.1 All Intellectual Property Rights in the Goods vest in and shall remain vested in the Company (or its third-party licensors as the case may be).
- 10.2 The Buyer shall not (except with the prior written consent of the Company) remove any identifying mark, logo, trademark, name or other identifying mark or Intellectual Property Right of the Company.
- 10.3 If at any time, the Buyer becomes aware of any actual or suspected infringement of the Intellectual Property Rights of the Company or of any goods which are counterfeits of the Goods, it shall notify the Company, providing as much information as it is aware of in order to assist the Company to take such action as the Company deems appropriate.

11 Termination

- 11.1 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Buyer if
- 11.1.1 the Buyer fails to pay any sum due to the Company whether in whole or in part, on the due date for payment, whether under the Contract or any other contract with the Company;
 - 11.1.2 except in respect of non-payment which shall be dealt with in accordance with clause 11.1.1, the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of the Buyer being notified in writing to do so;
 - 11.1.3 any of the following events occur in respect of the Buyer (each an **Insolvency Event**):
 - 11.1.3.1 the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or has a petition presented against it, or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring) or having a receiver appointed over any of its assets; or
 - 11.1.3.2 the Buyer has a petition presented to any court for its winding up or administration, or a winding up resolution is passed, or an application is made for an administration order, or any winding up or administration order is made against it; or
 - 11.1.3.3 an encumbrancer takes possession, or a receiver, manager, administrator or administrative receiver is appointed in respect of the Buyer; or
 - 11.1.3.4 the Buyer ceases, or threatens to cease, to carry on business; or
 - 11.1.3.5 the Buyer is unable to pay its debts as they fall due (being a company) within the meaning of section 123 Insolvency Act 1986, or (being an individual) within the meaning of section 268 Insolvency Act 1986; or

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11.1.3.6 the Company reasonably apprehends that any event mentioned above is about to occur in relation to the Buyer.

- 11.2 If an Insolvency Event occurs then, without prejudice to any other right or remedy available to the Company, the Company shall also be entitled to cancel the Contract and/or suspend any further deliveries under the Contract (and/or under any other contract with the Buyer) without any liability to the Buyer, and if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 11.3 Without limiting its other rights or remedies, the Buyer may terminate the Contract with immediate effect by giving written notice to the Company if the Company commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of the Company being notified in writing to do so.
- 11.4 On termination of the Contract for any reason, the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Buyer immediately on receipt.
- 11.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 11.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

12 Force Majeure

- 12.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control (including fire, flood, trade embargo, Government action, explosion, delay in supplies, plant or other breakdown, interference by labour strikes, disputes or lockouts, accident or non-availability of transport or materials, epidemic or pandemic) (each a Force Majeure Event).
- 12.2 Except with regard to any payment obligations of the Buyer, in such circumstances and in addition to the rights afforded to the Company in accordance with clause 5.6 and clause 5.8, the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 3 (three) months or more, the party not affected may terminate the Contract by giving 7 days' written notice to the affected party.
- 12.3 Except with regard to payment obligations of the Buyer, a party which is prevented or delayed in performing its obligations under the Contract as a result of the Covid-19 (SARS-CoV-2 /Coronavirus) pandemic or as a result of any measures put in place as a result of the pandemic including any lockdown, partial lockdown, Government action or guidance (whether central or local), rules, restrictions, Covid related laws or similar, shall be entitled to exercise the same rights in such circumstances to those in this clause 12 and clauses 5.6 and 5.8 as apply to a Force Majeure Event (whether or not the relevant event is also a Force Majeure Event).

13 General

- 13.1 The Company may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 13.2 The Buyer may not assign, transfer, mortgage, charge, subcontract, delegate, 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 Company.
- 13.3 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. These Conditions supersede any previous terms and conditions issued by the Company.
- 13.4 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.
- 13.5 Subject to the Company's right in clause 4.4.2, no variation of the Contract shall be effective unless in writing and signed by the parties.
- 13.6 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.
- 13.7 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 13.7, the parties shall negotiate in good faith to agree a replacement provision that, to the extent possible, achieves the intended commercial result of the original.
- 13.8 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 13.9 Any notice or communication shall be deemed to have been received; if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; or if sent by pre-paid first-class post or other next working day service, at 9:00 am on the second Business Day after posting or at the time recorded by the delivery service.
- 13.10 This clause does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.
- 13.11 Unless expressly stated otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. Any right which exists or is available apart from that Act is not affected. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 13.12 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with English law. Each party irrevocably agrees that the English courts shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation

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