

TERMS AND 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: the terms and conditions set out in this document as amended from time to time in accordance with clause 11.4.

Contract: the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

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

Delivery Location: has the meaning given in clause 4.2.

Force Majeure Event: has the meaning given in clause 10.1.

Goods: the goods (or any part of them) set out in the Order.

Order: the Customer's order for the Goods, as set out in the in the Customer's written acceptance of the Supplier's quotation or in the Customer's purchase order form, as the case may be.

Order Confirmation: the Supplier's written acceptance of the Order.

Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

Supplier: Europa Import Export Limited, registered in England and Wales with company number 02059651 and registered office address at Flat 41 3-8 Porchester Gate, Bayswater Road, London, W2 3HP.

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 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 (providing it is supported by a valid server delivery receipt).

2 BASIS OF CONTRACT

- 2.1 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 law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods 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.
- 2.3 The Order shall only be deemed to be accepted when the Supplier issues an Order Confirmation, at which point the Contract shall come into existence.
- 2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.5 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier'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. The sale is not a sale by sample or description.
- 2.6 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation is always subject prior sale and/or subject reconfirmation.

3 GOODS

- 3.1 The Goods are described in the Order Confirmation, including any applicable Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

4 DELIVERY

- 4.1 If the Goods are being delivered by instalments, the Supplier shall accompany delivery of the Goods by a delivery note that shows the outstanding balance of Goods remaining to be delivered.
- 4.2 Unless otherwise agreed by the Supplier in writing, the Supplier shall deliver the Goods to the location set out in the Order Confirmation (**Delivery Location**).
- 4.3 The Goods shall be treated as delivered when they are consigned to a public carrier unless delivery is made by transport owned by or directly controlled by the Supplier.
- 4.4 Any dates referred to or quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be

liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

- 4.5 The Supplier shall not be liable for any loss or damage whatsoever due to delivery of the Goods upon a different date or the expiry of any delivery period referred to in the Contract or quotation.
- 4.6 Subject to clause 8.3, if the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.7 If the Customer fails to take or accept delivery of the Goods (as the case may be) immediately upon the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by the Supplier's failure to comply with its obligations under the Contract:
- 4.7.1 delivery of the Goods shall be deemed to have been completed at the time the Supplier notified the Customer that the Goods were ready; and
- 4.7.2 the Supplier shall store the Goods until delivery takes place, without liability and in the open if necessary at the cost and risk of the Customer, and charge the Customer for all related costs and expenses (including insurance).
- 4.8 If seven Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and charge the Customer for any shortfall below the price of the Goods.
- 4.9 Where Goods are sold pursuant to Free on Board (FOB), Cost and Freight (CFR) or Cost Insurance Freight (CIF) as defined in the Incoterms® 2020 Rules, and the price is to be secured by a workable letter of credit pursuant to the terms of clause 7.7, it must be received prior to the Supplier fixing a vessel and/or loading the Goods. If the Customer fails to comply, the Supplier may, without limiting its other rights and remedies, resell or otherwise dispose of part or all of the Goods and charge the Customer for any shortfall below the price of the Goods.
- 4.10 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately pursuant to the terms of clause 7.16. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.11 If the Goods are delivered pursuant to Free on Board (FOB) or Cost and Freight (CFR) as defined in the Incoterms® 2020 Rules, the Supplier's responsibility shall cease immediately when the Goods are delivered in accordance thereto and section 32(3) of the Sale of Goods Act 1979 shall be, to the fullest extent permitted by law, excluded from the Contract.

5 QUANTITY, WEIGHT, QUALITY AND ACCEPTANCE

- 5.1 Goods sold as "non-prime" or Goods deemed accepted by the Customer pursuant to clause 5.5 which the Supplier and the Customer agree to be "non-prime" are sold in their actual state, as seen, without warranty, with all faults whether or not the Goods have been inspected by the Customer prior to delivery. Any statement, specification, description or other information provided by the Supplier in respect of such Goods is given in good faith but the Supplier can accept no responsibility for its accuracy. In no circumstances will the Supplier be under an obligation to replace or repair such Goods or satisfy any claim whatsoever in respect thereof.
- 5.2 If the Supplier delivers up to and including 10% more or less than the quantity of Goods ordered the Customer may not reject them.
- 5.3 Subject to clause 5.1, unless otherwise agreed by the Supplier in writing, the Supplier warrants that on delivery, and for a period of fourteen days from the date of delivery or seven days from the date of delivery in respect of any weight discrepancies (**warranty period**), the Goods shall:
- 5.3.1 conform with the Specification, if any; and
- 5.3.2 unless otherwise specified by the Supplier in writing, be of merchantable quality (within the meaning of the Sale of Goods Act 1979).
- 5.4 Subject to clause 5.5, if:
- 5.4.1 the Customer gives notice in writing to the Supplier during the warranty period and within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.3;
- 5.4.2 the Supplier is given a reasonable opportunity of examining such Goods; and
- 5.4.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,
- the Supplier shall, at its option, after having received the supportive documents set out in clause 5.6, and having found the claim to be valid, repair or replace the defective Goods, or refund the price (or a proportionate part thereof) of the defective Goods.
- 5.5 The Customer shall be deemed to have accepted the Goods unless it has given written notice to the Supplier in accordance with clause 5.4.1.

- 5.6 Within seven days of giving written notice to the Supplier in accordance with clause 5.4.1, the Customer shall send to the Supplier the following supporting documents:
- 5.6.1 documents clearly explaining and evidencing the reason why some or all of the Goods do not comply with the warranty set out in clause 5.3 prepared by an unbiased and internationally recognised inspection company previously agreed in writing between the parties;
- 5.6.2 the Contract;
- 5.6.3 the Specification, if any;
- 5.6.4 the lot numbers, name, size, number of cases, weight and marking of the Goods;
- 5.6.5 the name of the vehicle or vessel carrying the Goods to the Delivery Location;
- 5.6.6 the number of the bill of lading or any other relevant delivery documentation provided by the carrier; and
- 5.6.7 in respect of any weight discrepancies:
- 5.6.7.1 the results of weighing the Goods at the Delivery Location;
- 5.6.7.2 the type of scales used to weigh the Goods; and
- 5.6.7.3 the date and status of the latest calibration of the scales used to weigh the Goods.
- 5.7 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.3 in any of the following events:
- 5.7.1 the Customer makes any use of such Goods after giving notice in accordance with clause 5.4.1;
- 5.7.2 the defect arises because the Customer failed to follow the Supplier'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;
- 5.7.3 the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;
- 5.7.4 the Customer alters or repairs such Goods without the written consent of the Supplier;
- 5.7.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, defects in the Customer's machinery, poor or inadequate handling / processing, abnormal storage or working conditions or long-term storage in the open;
- 5.7.6 the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or
- 5.7.7 where the Goods are either packed or protected in the manner specified in the Contract, or if there is no such specification, delivered without sufficient packing or protection, the Supplier shall not be liable for any damage to or deterioration of the Goods during carriage or delivery.
- 5.8 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 5.3.
- 5.9 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.
- 5.10 All warranties, representations, conditions and all other terms of any kind whatsoever implied by law, trade custom, practice or course of dealing (including as to quality, fitness or suitability for any purpose) are, to the fullest extent permitted by law, excluded from the Contract.
- 5.11 All statements or undertakings contained in any British Standard, Euronorm, ISO Recommendation, or other standard or technical specification as to the quality, fitness or suitability of the Goods for any purpose are, to the fullest extent permitted by law, excluded from the Contract. The Customer shall satisfy itself that the Goods are suitable for any purpose for which they are to be used.
- 5.12 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 6 TITLE AND RISK**
- 6.1 The risk in the Goods shall pass to the Customer on completion of delivery subject to clause 4.3 and 4.11.
- 6.2 Title to the Goods shall not pass to the Customer until the earlier of:
- 6.2.1 the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
- 6.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 6.3.1 hold the Goods in a fiduciary capacity as bailee for the Supplier;
- 6.3.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- 6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.3.4 maintain the Goods in satisfactory condition and, unless otherwise agreed by the Supplier in writing, keep them insured against all risks for their full price from the date of delivery;
- 6.3.5 notify the Supplier immediately if it becomes subject to any of the events listed in clause 9.1.8 to clause 9.1.20 (inclusive); and
- 6.3.6 give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 6.4 Subject to clause 6.4, 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:
- 6.4.1 it does so as principal and not as the Supplier's agent; and
- 6.4.2 title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1.8 to clause 9.1.20 (inclusive), then, without limiting any other right or remedy the Supplier may have:
- 6.5.1 the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
- 6.5.2 the Supplier may at any time:
- 6.5.2.1 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
- 6.5.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- 6.6 Until such time as title to the Goods passes to the Customer, the Supplier may at any time:
- 6.6.1 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
- 6.6.2 if the Customer fails to do so promptly, enter upon any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- 6.7 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so all moneys owing by the Customer to the Supplier in respect of the Goods shall, without prejudice to any other right or remedy available to the Supplier, promptly become due and payable.
- 7 PRICE AND PAYMENT**
- 7.1 The price of the Goods shall be the price set out in the Order Confirmation.
- 7.2 The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- 7.2.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, increases in freight rates and increases in labour, materials and other manufacturing costs);
- 7.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification;
- 7.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions; or
- 7.2.4 any delay caused by the Customer's failure to provide within the time specified by the Supplier any letter of credit (including any amendments thereto) or any other security required by the Supplier.
- 7.3 The price of the Goods:
- 7.3.1 excludes amounts in respect of value added tax or any equivalent tax chargeable in the UK or elsewhere (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- 7.3.2 unless otherwise agreed by the Supplier in writing, excludes the costs and charges of packaging, insurance, transport and export of the Goods (if applicable), which shall be invoiced to the Customer.
- 7.4 The Customer shall be solely responsible for any and all import costs and duties, including any anti-dumping, countervailing and safeguard duties.
- 7.5 The Supplier may invoice the Customer for the Goods at any time before, on or after the completion of delivery.
- 7.6 The Customer shall pay each invoice submitted by the Supplier:
- 7.6.1 in accordance with the terms set out in the Order Confirmation; and
- 7.6.2 unless otherwise set out in the Order Confirmation, in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
- 7.7 If the price of any Goods sold pursuant to these Conditions is to be secured by a workable letter of credit satisfactory to the Supplier, in accordance with the terms set out in the Order Confirmation and the Contract, the provision of such letter of credit shall form part of the Customer's payment obligations under the Contract and time for provision of any workable letter of credit (including any amendments thereto) shall be of the essence of the Contract. If the Customer fails to comply, the Supplier may, without limiting its other rights or remedies, exercise its rights under clause 9.1.5.
- 7.8 The reference to a "workable letter of credit" in the Order Confirmation and the Contract shall be to a clean irrevocable letter of credit satisfactory to the Supplier, in full compliance with the terms set out in the Order Confirmation and the Contract.
- 7.9 No letter of credit shall be accepted or deemed to have been accepted by the Supplier until it satisfies the terms set out in the Order Confirmation and the Contract.
- 7.10 Without prejudice and subject to clause 7.9 above, unless otherwise agreed by the Supplier in the Order Confirmation, the date a workable letter of credit is deemed to be received is the date when a fully workable letter of credit is available at the counters of the Supplier's nominated bank. If a letter of credit has been opened but amendments are required and the letter of credit does not comply with the terms set out in the Order Confirmation and the Contract, then the letter of credit shall be deemed to

- have not been received.
- 7.11 No request by the Supplier for any amendments to a letter of credit at any time, including shipment and expiry extensions, shall constitute a waiver by the Supplier of any of its rights or remedies arising out of or in connection with the Customer's failure to provide a workable letter of credit (including any amendments thereto) within the time specified by the Supplier.
- 7.12 No amendments to a letter of credit shall vary the terms of the Contract, unless expressly agreed by both parties pursuant to clause 11.4.
- 7.13 Any amendments to a letter of credit requested by the Supplier shall be made and a duly amended workable letter of credit shall be received at the counters of the Supplier's nominated bank within one Business Day from the Supplier's request.
- 7.14 The Supplier shall not be responsible for any insertion in any bill of lading or other shipping documentation or document of title of clauses such as "rust stained", "partly rusty", "partly rust stained", "rust spotted", "some bands broken / missing / loose", "some edges bent / crumpled / dented / buckled / torn / scored", "telescopicity up to 70mm", "said to be / said to weigh", "stored in open area", "loaded from open area", "wet before shipment" and other similar clauses. Bills of lading with such clauses shall be considered clean and the Supplier shall be under no obligation to satisfy any claim in this respect unless otherwise agreed in writing by the Supplier.
- 7.15 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 9 or otherwise, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 7.15 will accrue each day at 8% a year above the Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.
- 7.16 All amounts due under the Contract from the Customer to the Supplier 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). If any such deduction or withholding is required, the Customer shall pay to the Supplier such additional amount as will ensure that the Supplier receives the same total amount that it would have received if no such deduction or withholding had been required.

8 LIMITATION OF LIABILITY

- 8.1 The restrictions on liability in this clause 8 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 8.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 8.2.1 death or personal injury caused by negligence; or
- 8.2.2 fraud or fraudulent misrepresentation.
- 8.3 Subject to clause 8.2, the Supplier's total liability to the Customer shall in no circumstances exceed USD 250,000 (two hundred and fifty thousand United States Dollar).
- 8.4 Subject to clause 8.2, the Supplier's liability for the following types of loss is wholly excluded:
- 8.4.1 loss of profits;
- 8.4.2 loss of sales or business;
- 8.4.3 loss of agreements or contracts;
- 8.4.4 loss of anticipated savings;
- 8.4.5 loss of use or corruption of software, data or information;
- 8.4.6 loss of or damage to goodwill; and
- 8.4.7 indirect or consequential loss.
- 8.5 This clause 8 shall survive termination of the Contract.

9 TERMINATION

- 9.1 Without limiting its other rights or remedies, the Supplier may terminate the Contract or suspend and/or terminate provision of the Goods under the Contract or any other contract between the Customer and the Supplier with immediate effect by giving written notice to the Customer if:
- 9.1.1 the Customer fails to pay any amount due under the Contract on the due date for payment;
- 9.1.2 the Customer commits a material breach of any other term of the Contract and (if such a breach is remediable) fails to remedy that breach within seven days of being notified in writing to do so;
- 9.1.3 prompt transfers or payments from the Customer's country of trading or Delivery Location are suspended and in this event the Supplier may request full payment in advance or any other security for the price of any Goods to be provided under the Contract or any other contract between the Customer and the Supplier as a condition precedent to resuming provision of any such Goods;
- 9.1.4 the Customer's country of trading or Delivery Location is or becomes subject to any international sanctions or embargoes;
- 9.1.5 the Customer fails to provide within the time specified by the Supplier any workable letter of credit (including any amendments thereto) or any other security required by the Supplier;
- 9.1.6 the Customer repeatedly breaches any of the terms of the Contract 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 the terms of the Contract;
- 9.1.7 the Supplier reasonably believes that the Customer or any of its officers, directors, associates or affiliates are or have been engaging in any illegal or fraudulent activity;
- 9.1.8 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 under the Contract has been placed in jeopardy;
- 9.1.9 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 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 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 IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- 9.1.10 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 any of its creditors other than (being a company) 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;
- 9.1.11 the Customer applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- 9.1.12 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 (being a company, limited liability partnership or partnership) 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;
- 9.1.13 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Customer (being a company, partnership or limited liability partnership);
- 9.1.14 the holder of a qualifying floating charge over the assets of the Customer (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- 9.1.15 a person becomes entitled to appoint a receiver over all or any of the assets of the Customer or a receiver is appointed over all or any of the assets of the Customer;
- 9.1.16 the Customer (being an individual) is the subject of a bankruptcy petition, application or order;
- 9.1.17 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 the Customer's assets and such attachment or process is not discharged within fourteen days;
- 9.1.18 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 9.1.9 to clause 9.1.17 (inclusive);
- 9.1.19 the Supplier reasonably believes that the Customer is about to become subject to any of the events mentioned in clause 9.1.9 to clause 9.1.17 (inclusive); or
- 9.1.20 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business.
- 9.2 Without limiting its other rights or remedies, the Supplier shall be entitled at any time to withdraw credit from the Customer without prior notice or divulgence of reasons.
- 9.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract at any time by giving seven days' prior written notice to the Customer.
- 9.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 9.5 Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 9.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- ## 10 FORCE MAJEURE
- 10.1 **Force Majeure Event** is/are any acts, events, omissions or accidents beyond the Supplier's reasonable control, including acts of God, flood, drought, fire, storm, earthquake or other natural disaster; epidemic, pandemic, lockdown or COVID-19 related matters; non-performance by producing mills, suppliers or sub-contractors; the ending of the transition period for the UK's departure from the EU; any law or any action taken by a government or public authority, including imposing an export restriction, quota or prohibition or failing to grant a necessary licence or consent; any labour or trade dispute, strikes, industrial action or lockouts (whether involving the workforce of the Supplier or any other party); terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; interruption or failure of a utility service, transport or telecommunications network; collapse of buildings, fire, explosion, malicious damage or accident; breakdown of plant or machinery.
- 10.2 The Supplier shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract, or from carrying on its business, by a Force Majeure Event, provided that the Customer is notified of such an event and its expected duration. In such circumstances, 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 and the Customer shall at its own cost duly extend the validity of any applicable letter of credit during such period. If the period of delay or non-performance continues for three months, the Customer may terminate the Contract by giving thirty days' prior written notice to the Supplier.

11 GENERAL

11.1 Assignment and other dealings.

- 11.1.1 The Supplier 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.
- 11.1.2 The Customer 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 Supplier.

11.2 Confidentiality.

- 11.2.1 Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.2.2.
- 11.2.2 Each party may disclose the other party's confidential information:
- 11.2.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 11.2; and
- 11.2.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.2.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

11.3 Entire agreement.

- 11.3.1 This 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.
- 11.3.2 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 the Contract.

11.4 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

11.5 **Waiver.** 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.

11.6 **Severance.** 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 11.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

11.7 Notices.

- 11.7.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
- 11.7.1.1 delivered by hand, by pre-paid first-class post or other next working day delivery service, by pre-paid airmail or by commercial courier at its registered office (if a company) or its principal place of business (in any other case); or
- 11.7.1.2 sent by email to the address specified in the Order (in the case of the Customer) or the Order Confirmation (in the case of the Supplier).
- 11.7.2 Any notice or communication shall be deemed to have been received:
- 11.7.2.1 if delivered by hand, on signature of a delivery receipt;
- 11.7.2.2 if sent by pre-paid first-class post or other next working day delivery service providing proof of postage, at 9.00 am on the second Business Day after posting;
- 11.7.2.3 if sent by pre-paid airmail providing proof of postage, at 9.00am on the fifth Business Day after posting;
- 11.7.2.4 if sent by commercial courier, on signature delivery receipt;
- 11.7.2.5 if sent by email, at the time the email is sent or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 11.7.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

11.8 **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

11.9 **Governing law.** The Contract, and any dispute or claim (including non-

contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

11.10 **Jurisdiction.** Each party irrevocably agrees, for the sole benefit of the Supplier that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over 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. Nothing in this clause shall limit the right of the Supplier to take proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.