

GRAYSON AUTOMOTIVE SERVICES LIMITED GENERAL CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATION

- 1.1 The following definitions and rules of interpretation apply in these Conditions.
- Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- Business Hours:** the period from 8.00 am to 5.00 pm on any Business Day.
- Charges:** means together the Goods Price and the Services Charges.
- Commencement Date:** the date specified in the Order Form and/or Order Acknowledgment.
- Conditions:** these terms and conditions as amended from time to time in accordance with clause 16.9.
- Contract:** the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.
- Customer:** the person or firm specified in the Quotation, Order Form and/or Order Acknowledgment who purchases the Goods and/or Services from the Supplier.
- Deliverables:** the deliverables set out in the Order Form and/or Order Acknowledgment
- Delivery Location:** the location set out in the Order Form and/or Order Acknowledgment or such other location as the parties may agree.
- Force Majeure Event:** has the meaning given to it in clause 15.
- Goods:** the goods (or any part of them) set out in the Order Form and/or Order Acknowledgment.
- Goods Price:** the charges for the Goods (or any part of them) set out in the Order Form and/or Order Acknowledgment (or, if no price is quoted, the price set out in the Supplier's published price list as at the date of delivery).
- Goods Specification:** the specification for the Goods, as set out in the Quotation, Technical Proposal, Order Form and/or Order Acknowledgment.
- Insolvency Event:** means if:
- a party 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), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - a party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - a party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service 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 computer 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, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- Lead Time:** the standard lead time for the goods stipulated on the Quotation, Order Form and/or Order Acknowledgment for the Goods and/or Services.
- Order Form:** the Customer's order for the supply of Goods and/or Services, as set out on overleaf.
- Order Acknowledgement:** the Suppliers acknowledgement to the Customer purchase order for the supply of Goods and/or Services.
- PPI:** the Producer price indices
- Prototype:** a prototype version of any Goods.
- Services:** the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification.
- Services Charges:** the charges for the provision of the Services set out in the Order Form and/or Order Acknowledgment.
- Service Specification:** the description or specification for the Services as set out in the Order Form and/or Order Acknowledgment.

Special Terms: the additional terms (if any) set out in the Quotation, Order Form and/or Order Acknowledgment.

Supplier: Grayson Automotive Services Limited (registered in England and Wales with company number 01223712) whose registered office is at 1 Wharf Road, Tyseley, Birmingham, B11 2DX.

Supplier Materials: has the meaning given in clause 8.1.8.

Warranty Period: means 12 months or such other period as set out in the Quotation, Order Form and/or Order Acknowledgment.

- A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- A reference to a party includes its personal representatives, successors and permitted assigns.
- A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- A reference to writing or written excludes fax but not email.
- In the event of any conflict between any of these Conditions and any Special Terms, the Special Terms shall prevail.

2. BASIS OF CONTRACT

- The Order Acknowledgment constitutes an offer by the Customer to purchase Goods or Services or Goods and Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order Acknowledgment (including, for the avoidance of doubt, the Goods Specification and the Services Specification) are complete and accurate.
- The Order Acknowledgment shall only be deemed to be accepted on the Commencement Date at which point and on which date the Contract shall come into existence.
- Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract nor have any contractual force.
- 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.
- Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 calendar days from its date of issue.
- All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
- 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.

3. GOODS

- The Goods are described in the Goods Specification.
- 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 costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or 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 Goods Specification. This clause 3.2 shall survive termination of the Contract.
- The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

4. DELIVERY OF GOODS

- The Supplier shall ensure that:
 - each delivery of the Goods is accompanied by a delivery note that shows the date of the Order Form and/or Order Acknowledgment, the contract number, the type and quantity of the Goods (including the code number of the Goods, where applicable)
 - it states clearly on the delivery note any requirement for the Customer to return any packaging material to the Supplier. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

- 4.2 The Supplier shall deliver the Goods to the Delivery Location at any time after the Supplier notifies the Customer that the Goods are ready for delivery.
- 4.3 Delivery of the Goods shall be completed:
- 4.3.1 (for Goods delivered in the United Kingdom) on a FCA basis or DAP basis at the Delivery Location, depending what is specified on the Quotation, Order Form and/or Order Acknowledgement.
- 4.3.2 (for Goods delivered outside the United Kingdom) on an FCA basis pursuant to INCOTERMS 2020.
- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 The standard lead time for Goods and/or Services specified on the Quotation and Order Form and/or Order Acknowledgement will apply in all cases. The Supplier is not obliged to deliver any sooner than the specified lead time for the Goods and/or Services, even if requested to do so by the Customer.
- 4.6 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 delivery of the Goods within five Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- 4.7.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the fifth Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
- 4.7.2 the Supplier shall store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.8 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken 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 Goods Price.
- 4.9 If the Supplier delivers up to and including 10% less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, the Supplier shall make a pro rata adjustment to the invoice for the Goods.
- 4.10 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.11 The supplier shall not be liable any costs or charges due to late delivery after the date stated on the Supplier Order Form and/or Order Acknowledgement.
- 4.12 The Customer can request a change to the Delivery Dates or the Goods Specification and the Services Specification included on the Supplier Order Form and/or Order Acknowledgement however will be liable any costs/expenses associated to such change being implemented. The Supplier has no obligation to accept any changes to the Order, Delivery Dates or Specification requested by the Customer.
- 4.13 The Customer can request to Cancel the Order for Goods. Any cancellation request will be assessed by the Supplier and may result in a cost liability for materials and / or components. Orders cannot be cancelled if the delivery date is shorter than the product lead time. Any cancellation request should be made in writing by the Customer, terms of the cancellation acceptance and liabilities for the Customer will only be valid when issued in writing by the Supplier.
- 4.14 Any returns will be subject to the terms and guidelines set-out in Supplier Returns Policy, reference document GFN855.
- 4.15 The Suppliers latest version of GFN855 take precedent, the latest revision number will be included on the Quotation, Order Form and/or Order Acknowledgment.
- 5. QUALITY OF GOODS**
- 5.1 The Supplier warrants that on delivery, and for the Warranty Period, the Goods shall:
- 5.1.1 conform in all material respects with the Goods Specification;
- 5.1.2 be free from material defects in design, material and workmanship; and
- 5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 5.2 Subject to clause 5.3, if:
- 5.2.1 the Customer gives notice in writing to the Supplier during the Warranty Period that some or all of the Goods do not comply with the warranty set out in clause 5.1;
- 5.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and
- 5.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,
- the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full. The Customer acknowledges and agrees that the warranty set out in clause 5.1 shall not apply to Prototypes (and in the event that the Customer requests any variation to the Goods Specification for any Prototype and / or further development of any Prototype, the Supplier shall be under no obligation to agree to such variation and /or development unless and until the Charges relating to the same are agreed).
- 5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 if:
- 5.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.1.1;
- 5.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, sign-off, approval, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 5.3.3 the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
- 5.3.4 the Customer alters or repairs such Goods without prior notification and written consent of the Supplier;
- 5.3.5 the defect arises as a result of fair wear and tear, willful damage, vandalism, malicious damage, negligence, or abnormal working conditions; or
- 5.3.6 the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.3.7 The Goods are not used in accordance with guidelines set-out in the Supplier Standard Warranty Terms and Conditions, reference document: GFN241.
- 5.3.8 The suppliers latest version of GFN241 take precedent, the latest revision number will be included on the Quotation, Order Form and/or Order Acknowledgment.
- 5.4 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 5.1.
- 5.5 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.
- 6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods in which case title to the Goods shall pass at the time of payment.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- 6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.2.2 to clause
- 6.3.5 ; and
- 6.3.6 give the Supplier such information as the Supplier may reasonably require from time to time relating to:
- (a) the Goods; and
- (b) the ongoing financial position of the Customer;
- 6.3.7 not pledge or in any way charge any of the Goods by way of security for any indebtedness
- 6.4 At any time before title to the Goods passes to the Customer, the Supplier may by notice in writing require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- 7. SUPPLY OF SERVICES**
- 7.1 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order Form and/or Order Acknowledgment, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

- 7.3 The Supplier reserves the right to amend the Service 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.
- 7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 8. CUSTOMER'S OBLIGATIONS**
- 8.1 The Customer shall:
- 8.1.1 ensure that the terms of the Order Form and/or Order Acknowledgement and any information it provides in the Service Specification and the Goods Specification are complete and accurate;
- 8.1.2 co-operate with the Supplier in all matters relating to the Services;
- 8.1.3 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;
- 8.1.4 provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 8.1.5 prepare the Customer's premises for the supply of the Services;
- 8.1.6 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;
- 8.1.7 comply with all applicable laws, including health and safety laws;
- 8.1.8 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
- 8.1.9 comply with any additional obligations as set out in the Service Specification and / or the Goods Specification.
- 8.2 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**):
- 8.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend 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;
- 8.2.2 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 8.2; and
- 8.2.3 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.
- 9. CHARGES AND PAYMENT**
- 9.1 The Goods Price shall be exclusive of all costs and charges of packaging, insurance, transport, commissioning, end of line inspections and software updates of the Goods, which shall be invoiced to the Customer.
- 9.2 With regard to the Services Charges, unless specified otherwise in the Order Form / Order Acknowledgment:
- 9.2.1 the Services Charges shall be calculated on a time and materials basis in accordance with the Supplier's daily fee rates, as set out in the Quotation.
- 9.2.2 the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Goods or Services or Goods and Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 9.2.3 For goods which are supplied with pre-programmed with software embedded to the product, the Supplier shall be entitled to charge the Customer for undertaking changes or updates to software. Updating the Goods with latest software to the latest level is not included in the price of the goods and is the responsibility of the Customer. The Supplier will provide instructions for software updates to be completed by the Customer.
- 9.2.4 Commissioning and end of line inspections of goods at the Customers facility is not included in the Goods Price. The Supplier shall be entitled to charge the Customer for additional Services.
- 9.3 The Supplier reserves the right to:
- 9.3.1 increase the Services Charges on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the PPI (Producer Price Indices) in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the Commencement Date and shall be based on the latest available figure for the percentage increase in the PPI;
- 9.3.2 increase the Goods Price by giving 56 days / 8 weeks written notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:
- (a) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, increases in supply chain costs, supply chain delays, express transport for materials, surcharges and exceptional costs for materials and increases in utilities, labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
- (c) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.
- (d) The Supplier may increase the Goods Price on no more than one occasion in any 6-month period to reflect any increase (if applicable) in the Supplier's supply chain or manufacturing costs which directly relate to the supply of the Goods.
- 9.4 Unless specified otherwise in the Quotation, Order Form and/or Order Acknowledgement the Supplier shall invoice the Customer:
- 9.4.1 (in respect of Goods) on or at any time after completion and/or despatch of the Goods;
- 9.4.2 (in respect of Services) on completion of the Services or (in the event that the period during which the Services are supplied exceeds a month) monthly in arrears.
- 9.5 Unless specified otherwise in the Order Form and/or Order Acknowledgement, the Customer shall pay each invoice submitted by the Supplier:
- 9.5.1 within 30 days of the date of the invoice and
- 9.5.2 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.
- 9.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.7 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 13, 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 9.7 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%.
- 9.8 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).
- 10. INTELLECTUAL PROPERTY RIGHTS**
- 10.1 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.
- 10.2 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 10.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 10.2.
- 10.4 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.
- 11. CONFIDENTIALITY**
- 11.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party (or of any member of the group of companies to which the other party belongs), except as permitted by clause 11.2.
- 11.2 Each party may disclose the other party's confidential information:
- 11.2.1 to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with 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; and
- 11.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.3 No party shall use any 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.
- 12. LIMITATION OF LIABILITY**
- 12.1 The restrictions on liability in this clause 12 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 12.2 Nothing in the Contract limits:
- 12.2.1 any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
- (d) defective products under the Consumer Protection Act 1987;
- 12.2.2 the Customer's liability to pay the Charges.
- 12.3 Neither party shall be liable to the other party whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Contract.
- 12.4 Subject to clauses 12.2 and 12.3, the Supplier's aggregate liability to the Customer in any 12 month period of the Contract whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall not exceed the Charges paid or payable pursuant to the Contract in the 12 month period immediately prior to the date on which the liability concerned arose.
- 12.5 The Supplier has given commitments as to compliance of the Goods and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.6 This clause 12 shall survive termination of the Contract.
- 13. TERMINATION**
- 13.1 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract by giving the Customer not less than 6 months' written notice.
- 13.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if the other party:
- 13.2.1 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; or
- 13.2.2 the other party suffers an Insolvency Event;
- 13.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment
- 13.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer suffers (or the Supplier reasonably believes that the Customer is about to suffer) an Insolvency Event.
- 14. CONSEQUENCES OF TERMINATION**
- 14.1 On termination of the Contract:
- 14.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and 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;
- 14.1.2 the Customer shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 14.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of 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.
- 14.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.
- 15. FORCE MAJEURE**
- Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 28 days, the party not affected may terminate the Contract by giving 28 days' written notice to the affected party.
- 16. GENERAL**
- 16.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.
- 16.2 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 16.2.1 delivered by hand or by pre-paid first-class post or other next working day delivery service to the addresses specified in the Order Form and/or Order Acknowledgement; or
- 16.2.2 sent by email to the addresses specified in the Order Form and/or Order Acknowledgement. (or an address substituted in writing by the party to be served).
- 16.2.3 deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- 16.3 Clause 16.2 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.
- 16.4 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 or part provision of the Contract is deemed deleted under this clause 16.4 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 16.5 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 16.6 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 16.7 The Contract constitutes the entire agreement between the parties. Each party acknowledges that in entering into the Contract it does not rely on 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.
- 16.8 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. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 16.9 Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 16.10 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. Each party irrevocably agrees that the courts of England and Wales 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.