



F. KLUCZNIK & SON LTD T/A IAE TERMS & CONDITIONS

1 INTERPRETATION

1.1 Definitions:

- "Acknowledgment"**: the written confirmation of order issued by the Supplier confirming the Customer's Order.
- "Affiliate"**: means any entity that directly or indirectly Controls, is Controlled by or is under common Control with another entity.
- "Approval Drawings"**: means drawings produced by the Supplier for specific approval by the Customer.
- "Bespoke Goods"**: means any engineered to order Goods which are made to a Customer's Specification.
- "Business Day"**: a day (other than a Saturday, Sunday or public holiday) when the banks in London are open for business.
- "Cancellation Fee"**: means a fee which is equivalent to the costs incurred by the Supplier in manufacturing MTO Goods or Bespoke Goods (where no deposit has been paid) which may include, without limitation, the raw material, labour, design and manufacturing costs incurred by the Supplier as at the date of cancellation.
- "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.
- "Control"**: means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company;
- "Customer"**: the person, firm, organisation or other entity who purchases the Goods from the Supplier either as End User or on behalf of an End User (including for the avoidance of doubt, any dealer or agent).
- "Delivery Location"**: the location to which the Goods are to be delivered as set out in the Order or as otherwise agreed by the Supplier in accordance with these Conditions.
- "Deposit"**: a sum of up to 50% of the price as set out in the Acknowledgment, which is non-refundable.
- "End User"**: means, where applicable, any person or persons to whom the Customer sells on or hands over the Goods.
- "Force Majeure Event"**: an event or circumstance beyond a party's reasonable control.
- "Goods"**: the goods (or any part of them) set out in the Order.
- "MTO Goods"**: standard Goods which are made to order for a specific Customer.
- "Order"**: the Customer's order for the Goods as confirmed by the Supplier's written Acknowledgment.
- "Specification"**: any specification for the Goods, including any related plans and drawings that are agreed in writing by the Customer and the Supplier.
- "Supplier"**: F. Klucznik & Son Ltd trading as IAE (registered in England and Wales with company number 01448116).

1.2 INTERPRETATION:

- 1.2.1 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.2.2 any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.3 a reference to **writing** or **written** includes emails but not faxes.

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 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 submitted by the Customer are complete and accurate.
- 2.3 The Order shall be deemed to be accepted by the Supplier on the earlier of:
- 2.3.1 the date upon which the Supplier commences any work in relation to the Customer's order for Bespoke Goods (including, without limitation any drawing or preparation of manufacturing documents) or MTO Goods;
- 2.3.2 the date upon which the Supplier issues an Acknowledgment and, if requested by the Supplier, the Customer has paid in cleared funds the Deposit at which point the Contract shall come into existence. The Supplier may accept or reject an Order at its discretion at any time prior to acceptance.
- 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 (other than Approval Drawings) 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.
- 2.6 A quotation for the Goods given by the Supplier is an invitation to treat only and shall not constitute an offer and are incapable of being accepted by the Customer. A quotation shall only be valid for a period of 14 days from its date of issue unless otherwise stated.

3 GOODS AND CANCELLATION

- 3.1 The Goods are described in the Supplier's catalogue as modified by any applicable Specification.
- 3.2 Where Goods are manufactured to a Customer's Specification, the Customer takes full responsibility for that Specification and any related plans and drawings made by the Supplier based upon that Specification which are accepted by the Customer prior to manufacture of the Goods.
- 3.3 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 3.3 shall survive termination of the Contract.
- 3.4 The Supplier reserves the right to amend the Specification of the Goods if required by any applicable statutory or regulatory requirements.
- 3.5 The Supplier retains all intellectual property rights in all drawings (including, without limitation, Approval Drawings), designs and plans prepared in connection with the Goods and in the design of the Goods themselves.

4 DELIVERY

- 4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), the number of pallets used in packing the Goods special storage instructions (if any).
- 4.2 If the Supplier requires the Customer to return any packaging materials to the Supplier, including pallets, this shall be stated on the delivery note or notified to the Customer in writing. Returns of packaging material by the Customer in accordance with this clause 4.2 shall be at the Supplier's expense. Where the Customer is required to return any packaging materials these must be returned to the Supplier within 8 weeks of delivery. Packaging materials which are not returned by the Customer to the Supplier shall be disposed of by the Customer responsibly and in accordance with all applicable regulations regarding waste disposal.
- 4.3 Where packaging materials are to be collected by the Supplier, the Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. The Supplier shall be responsible for the costs of collecting packaging materials save where the Supplier is required to collect packaging materials left at a location other than the delivery address stated on the delivery note in which case the Customer shall be responsible for the costs of collection.
- 4.4 The Supplier may deliver the Goods by separate instalments and, save where Goods are delivered in separate instalments but all relate to the same Order, each separate instalment shall be treated as a separate contract and shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.5 Any costs of delivery payable by the Customer shall be set out in the Acknowledgment and the Supplier has the right to pass on to the Customer any unforeseen additional costs they incur in delivering the Goods.

- 4.6 The Supplier shall deliver the Goods to the Delivery Location at any time after the Supplier notifies the Customer that the Goods are ready. Any changes to the delivery address must be notified to the Supplier at least two weeks prior to the scheduled delivery date and the Supplier reserves the right to charge additional delivery costs if the delivery address is changed at any time after the Order is accepted or the original address provided by the Customer is incorrect.
- 4.7 Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
- 4.8 Any times and dates 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 (i) to make the Delivery Location available (ii) to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods, or (iii) to prepare the Delivery Location as required for the Goods.
- 4.9 If the Supplier fails to deliver the Goods in their entirety, its liability shall be limited to the actual cost 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.
- 4.10 It is the Customer's responsibility to check that all Goods have been delivered and to notify the Supplier within three Business Days if any Goods have not been delivered. If the Supplier delivers some but not all of the Goods which are due to be delivered in any instalment or delivery the Customer may not reject them or cancel the order, but shall notify the Supplier in accordance with this clause and on receipt of such notice from the Customer, the Supplier shall deliver the missing Goods within a reasonable time. If the Supplier is unable to do this, a pro rata adjustment shall be made to the Order invoice. Where the Supplier has delivered Goods in excess of those stated on the Order, the Supplier shall have a reasonable time within which to collect the Goods and the Customer shall store the excess Goods safely until they are collected.
- 4.11 The Customer is advised not to make any arrangements for the installation for the Goods until the Goods have been delivered and the Customer is satisfied that the Goods have been delivered in full. The Supplier shall not be responsible for any costs or expenses incurred by the Customer in relation to the installation or planned installation of the Goods.
- 4.12 If the Customer fails to take delivery of or collect the Goods within three 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 the Supplier's failure to comply with its obligations under the Contract:
- 4.12.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Goods were ready; and
- 4.12.2 the Supplier shall store the Goods at the Customer's risk until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.13 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery or collection the Customer has not taken delivery of them or collected them, the Order shall be treated as cancelled and the Supplier may resell or otherwise dispose of part or all of the Goods and may charge the Customer for any re-stocking fee (in the case of standard stock products), retain any Deposit paid by the Customer in relation to Bespoke Goods or charge a Cancellation Fee in accordance with clause 5.1.
- 4.14 In relation to Goods sold by the Supplier to any Customer for delivery outside England, mainland Scotland and Wales shipping and insurance shall be payable by the Customer unless otherwise agreed with the Supplier. The Customer shall be responsible, at its own expense for obtaining any licence and complying with any export regulations in force within the UK and any country to which the Goods are to be delivered.

5 CANCELLATION

- 5.1 If following the acceptance of the Order under clause 2.3, the Customer wishes to cancel the Order then the Customer must give Supplier at least five Business Days' written notice. If the Order relates to Bespoke Goods or MTO Goods and the Supplier has commenced work on the Order (including time spent upon drawings and designs) then the Supplier is entitled to retain any Deposit to cover the costs incurred and, if no Deposit has been paid, is entitled to charge the Customer a Cancellation Fee which shall be invoiced to the Customer following the date of cancellation.
- 5.2 Should the Customer cancel or return an Order for or fail to take delivery of standard stock items, the Supplier reserves the right to charge a restocking fee which will be an amount equivalent to 20% of the price payable by the Customer in respect of the returned Goods or cancelled Order.
- 5.3 Where Goods are delivered in instalments, each instalment shall be a separate contract and cancellation of any one contract relating to an instalment shall not entitle the Customer to repudiate or cancel any other contract or instalment.

6 QUALITY

- 6.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery ("**warranty period**"), the Goods shall:
- 6.1.1 conform in all material respects with their description and any applicable Specification; and
- 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); and
- 6.1.4 be fit for any purpose held out by the Supplier.
- 6.2 Subject to clause 6.3, if:
- 6.2.1 the Customer gives notice in writing to the Supplier within three Business Days of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;
- 6.2.2 provides to the Supplier a valid proof of purchase for the Goods;
- 6.2.3 the Supplier is given a reasonable opportunity of examining such Goods; and
- 6.2.4 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 warranty set out in clause 6.1 is not transferrable other than from a Customer to an End-User when the Goods are also transferred to that End-User.
- 6.3 The Supplier 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 Customer makes any further use of such Goods after giving notice in accordance with clause 6.2;
- 6.3.2 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;
- 6.3.3 the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer and agreed by the Supplier with the Customer;
- 6.3.4 the Customer alters or repairs such Goods without the written consent of the Supplier;
- 6.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 6.3.6 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 Supplier shall have no liability to the Customer 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.

7 TITLE AND RISK

- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery or deemed completion of delivery under clause 4.12.1, or on the date when the Supplier confirms to the Customer that the Goods are ready for collection.
- 7.2 Title to the Goods shall not pass to the Customer until the earlier of:
- 7.2.1 the Supplier receiving 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
- 7.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 7.4.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 7.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- 7.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 7.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;



- 7.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clauses 9.1.2 to 9.1.5; and
- 7.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time; and
- 7.3.6 on reasonable notice permit the Supplier to inspect the Goods during the Customer's normal business hours.
- 7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) until such time as it becomes aware or ought reasonably to have become aware than an event specified in clauses 9.1.2 to 9.1.5 has occurred or is likely to occur before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
- 7.4.1 it does so as principal and not as the Supplier's agent; and
- 7.4.2 title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1.2 to 9.1.5, then, without limiting any other right or remedy the Supplier may have: the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
- 7.5.1 the Supplier may at any time:
- 7.5.2 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
- 5.5.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any End User where the Goods are stored in order to recover them.
- 7.6 In relation to Goods sold by the Supplier to Customers outside England, mainland Scotland and Wales, risk in the Goods shall pass to the Customer at the point at which the Goods leave the Supplier's premises.

8 PRICE AND PAYMENT

- 8.1 The price of the Goods and any Deposit payable shall be the price set out in the Supplier's quotation and confirmed in the Acknowledgment.
- 8.2 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:
- 8.2.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- 8.2.2 any request by the Customer to change the delivery date(s), Delivery Location, quantities or types of Goods ordered, or the Specification; or
- 8.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 8.3 The price of the Goods:
- 8.3.1 excludes amounts in respect of value added tax (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
- 8.3.2 (unless otherwise stated in the Supplier's quotation or Acknowledgment), excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.
- 8.4 The Supplier may at any time after the date of the Acknowledgment, invoice the Customer for the amount of the Deposit or the full price of the Goods.
- 8.5 The Customer must pay the invoice for the Deposit (or the full price if requested in the Acknowledgment as the case may be) in full and in cleared funds before delivery or collection of the Goods is permitted. If payment in full is not required prior to delivery or collection, the Supplier shall invoice the Customer for the Goods either:
- 8.5.1 if Goods are being delivered, once the Goods have been despatched to the Customer; or
- 8.5.2 in the case of Goods which are being collected, at any time after the date upon which the Customer has been notified that the Goods are ready for collection.
- 8.6 The Deposit shall be non-refundable and where Orders are cancelled or Goods returned or rejected by a Customer, the Deposit shall belong to the Supplier who shall be entitled to apply the Deposit against its costs of manufacturing the Goods. In the case of Bespoke Goods, where the full price has been paid in advance of delivery and the Customer cancels the order or fails to accept delivery of the Goods, then the price paid shall be non-refundable and the Supplier shall be entitled to apply the price paid against any costs it has incurred in relation to the manufacturing of the Goods or any other costs it has incurred in relation to the Order. In the case of Orders for MTO Goods and Bespoke Goods where a Deposit or the price has not been paid in advance, the Supplier shall be entitled to charge a Cancellation Fee if an Order is cancelled in accordance with clause 5.1.
- 8.7 The Customer shall pay the invoice for the price (or the balance of the price where a Deposit has been paid) in full and in cleared funds by the earlier of the date of delivery or collection, or by the date which is 30 Business Days after the date of the invoice or as otherwise stated in the Acknowledgment. Payment shall be made to the bank account nominated in writing by the Supplier. Time for payment is of the essence.
- 8.8 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount. The Supplier shall also be entitled to charge an administration fee of 10% of the price for the Goods (excluding VAT) if payments are late or are not made.
- 8.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law) from any amounts due to the Supplier or its Affiliates. The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 8.10 In the event of a dispute regarding part of an Order, then the Customer shall only be entitled to withhold payment of an amount which relates to the disputed part of the Order and shall be obliged to pay all other amounts due to the Supplier and its Affiliates.

9 TERMINATION

- 9.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:
- 9.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
- 9.1.2 the Customer 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), 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;
- 9.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- 9.1.4 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; or
- 9.1.5 the Supplier has reason to believe that the Customer's credit rating has deteriorated or an event has occurred in relation to a Customer or End User (if not the Customer), which may invalidate any credit insurance policy that the Supplier may have taken out in respect of the Customer.
- 9.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 9.1.2 to clause 9.1.5, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 9.3 Without limiting its other rights or remedies, 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.
- 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.
- 9.5 Termination of the Contract 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 this Contract that existed at or before the date of termination.
- 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 shall remain in full force and effect.

10 LIMITATION OF LIABILITY

- 10.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- 10.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 10.1.2 fraud or fraudulent misrepresentation;
- 10.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- 10.1.4 defective products under the Consumer Protection Act 1987; or
- 10.1.5 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 10.2 Subject to clause 10.1:
- 10.2.1 the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 10.2.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £2,000,000 (two million pounds).

11 FORCE MAJEURE

- 11.1 Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for three months, the party not affected may terminate this Contract by giving 7 days' written notice to the affected party.

12 DATA PROTECTION

- 12.1 Both parties shall comply with their respective obligations under all applicable data protection legislation. The Customer shall indemnify and keep indemnified the Supplier against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, demands and legal and other professional costs arising out of or in connection with any breach by the Customer of its obligations under this clause 12.

13 GENERAL

- 13.1 **Assignment and other dealings.**
- 13.1.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 13.1.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.
- 13.2 **Confidentiality**
- 13.2.1 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 or of any member of the group to which the other party belongs, or the designs, drawings, plans or Specifications of any Goods supplied by the Supplier except as permitted by clause 13.2.2. For the purposes of this clause, "group" means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
- 13.2.2 Each party may disclose the other party's confidential information:
- 13.2.2.1 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 or in connection with this Agreement. 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 13.2; and
- 13.2.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.2.3 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 this Agreement.
- 13.3 **Entire agreement.**
- 13.3.1 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.
- 13.3.2 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 this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
- 13.4 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 13.5 **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.
- 13.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 13.7 **Notices.**
- 13.7.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email to the email address stated in the Order or Acknowledgment or otherwise notified to the other party.
- 13.7.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.7.1; 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- 13.7.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 13.8 **Third party rights.** No one other than a party to this Contract shall have any right to enforce any of its terms.
- 13.9 **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.
- 13.10 **Jurisdiction.** 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 this Contract or its subject matter or formation.

February 2022