

NEWART LIMITED

STANDARD CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the words have the following meaning:-

"the Buyer" means the individual, firm, company or other party with whom the Seller contracts

"the Contract" means any contract incorporating these Conditions under which the Seller provides Services and/or sells Goods to the Buyer

"the Goods" means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions

"International Supply as is described in section 26(3) of the Unfair Contract Terms Act 1977" means such a contract

"The Seller" means Newart Limited

"the Services" means the whole or any part of the services which the Seller is to supply or carry out

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time

1.3 The heading in these Conditions are for convenience only and shall not affect their interpretation

2 BASIS OF THE SALE

2.1 The Seller shall have the right to refuse to accept any orders placed for Goods and/or Services.

2.2 The Buyer shall be responsible for the accuracy of an order and for giving the

Seller any information necessary for the Seller to perform the Contract.

2.3 The Contract between the Seller and the Buyer shall come into effect on the Seller's acceptance of the Buyer's order.

2.4 No order in pursuance of any quotation or otherwise shall be binding on the Seller unless and until such order is accepted by the Seller. Any contract between the Seller and the Buyer shall be subject to these Conditions and save as aftermentioned no representative or agent of the Seller has authority to agree any terms or make any representations inconsistent with them or to enter into any contract except on the basis of them; any such term representation or contract will bind the Seller only if in writing and signed by a director

2.5 Unless otherwise agreed in writing by a director of the Seller these conditions shall apply to the exclusion of any terms and conditions stipulated or referred to by the Buyer in his order or pre-contract negotiations or any inconsistent terms implied by law or trade custom, practice or course of dealing

2.6 Any general description contained in the Seller's catalogues or other advertising material shall not form a representation or be part of the Contract

2.7 Where the Seller has not given a written acknowledgement of the Buyer's order these conditions will nonetheless apply to the Contract. The Seller reserves the right to correct any clerical or typographical errors made by its employees at any time

2.8 Orders placed by the Buyer leading to a contract which is not expressed to be subject to these conditions shall still be subject to them.

2.9 These conditions supersede all previous terms and conditions and shall replace any terms and conditions previously notified to the Buyer.

2.10 No variation to these conditions shall be binding on the Seller unless contained in the Seller's quotation or agreed in writing between the Buyer and a Director of the Seller.

2.11 The Seller's employees, sub-contractors

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and/or agents are not authorised to make any representations or warranties concerning the Goods unless confirmed by the Seller in writing.

- 2.12 No oral warranties or representations shall bind the Seller (unless given by a Director of the Seller).
- 2.13 The Buyer acknowledges that it does not rely on any representation and/or warranty which has not been made in accordance with these conditions.

3 SPECIFICATIONS AND INSTRUCTIONS

- 3.1 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods or Services within a sufficient time to enable the Seller to perform the Contract in accordance with its terms
- 3.2 If Goods are made to a specification, instruction or design supplied by the Buyer or any third party on behalf of the Buyer then
- 3.2.1 the suitability and accuracy of that specification, instruction or design will be the Buyer's responsibility; and
- 3.2.2 the Buyer will indemnify the Seller against any infringement or alleged infringement of any third party's intellectual property rights including but not limited to patent, design right, registered design, trademark, tradename or copyright, and any loss, damage or expense which it may incur by reason of any cash infringement or alleged infringement in any country; and
- 3.2.3 the Buyer will indemnify the Seller against any loss, damage or expense in respect of any liability in any country by reason of the specification, instruction or design of the Goods

3.3 All manuals, designs, drawings, specifications and other literature produced by the Seller shall remain the sole property of the Seller and shall not be reproduced by the Buyer or lent, sold, exhibited or used in any way except for the purpose of the Contract; the Buyer shall return them to the Seller forthwith on demand

3.4 Any copyright, registered design, design right or other intellectual property rights resulting from any design or other work carried out by the Seller whether at the request of the Buyer or not in performing its obligations under the Contract shall exclusively vest in the Seller

3.5 No order which has been accepted by the Seller may be cancelled by the Buyer unless otherwise agreed in writing by a director of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss or profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation

3.6 Any specification supplied by the Seller to the Buyer shall only be approximate unless stated on the Seller's quotation or agreed in writing.

3.7 The quantity, quality, description and/or specification for the Goods and/or the Services shall be that set out in the Buyer's order (if agreed by the Seller) unless otherwise agreed in writing by the parties.

3.8 The Buyer is responsible for checking the quotation/confirmation and satisfying itself that any specification given is accurate and adequate for the Goods and/or Services.

3.9 The Seller shall have no liability for errors in any specification or details supplied by the Buyer and the Buyer is solely responsible for their accuracy.

3.10 Details and/or specifications in brochures and price lists produced by the Seller are intended as a guide only and only give a general approximation of the Goods and/or Services.

3.11 The Buyer agrees to indemnify and keep indemnified the Seller against all claims,

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- losses, actions, liabilities, costs (including legal costs on a full indemnity basis and increased administration costs) and any other losses and/or liabilities arising out of the Seller's use of specifications, details and/or drawings supplied by the Buyer.
- 3.12 The Buyer confirms and agrees that it has not relied upon the details and information contained in the Seller's brochure unless it has sought and obtained written confirmation from the Seller of their accuracy.
- 3.13 The Seller reserves the right to make changes to the specification of the Goods and/or Services as required from time to time by law, applicable safety requirements or manufacturing requirements provided that they do not have a material adverse affect on the quality and/or performance of the Goods and/or the Services.
- 3.14 If the Seller does make changes to the specification of the Goods and/or Services which have a material adverse effect then the Buyer shall have the right to cancel the Contract without liability.
- 3.15 The production of any samples or test work for the Buyer shall, unless otherwise agreed in writing, be carried out at the cost of the Buyer.
- 4 PRICES**
- 4.1 Subject to clause 4.2 the price of the Goods and/or Services shall be the Seller's quoted price. All prices quoted are valid for 30 days only
- 4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the prices of the Goods and/or Services to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, (significant) increase in the costs of labour, materials or other costs of manufacture), any charge in delivery dates, quantities or specifications for the Goods and/or Services which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions
- 4.3 Unless otherwise agreed by the Seller in writing, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance
- 4.3 Prices are exclusive of any applicable value added tax duties taxes or other government charges payable in respect of the Services and/or the Goods, which the Buyer shall be additionally liable to pay to the Seller
- 4.4 Where the Seller has to spend time waiting or time is lost due to the act or default of the Buyer or its servants or agents the Seller reserves the right to make an extra charge in respect thereof
- 5 TERMS OF PAYMENT**
- 5.1 Unless otherwise specified by the Seller the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods. In the case of Services the Seller shall be entitled to invoice the Buyer on or at any time after the Services or any part thereof are carried out or, (in the event that the Services cannot be carried out due to the act or default of the Buyer, its servants or agents) when the Seller is ready to carry out the Services
- 5.2 Unless otherwise specified by the Seller the Buyer shall pay the contract price for the Goods and/or Services within 30 days of the date of the Seller's invoice notwithstanding that delivery may not have taken place and/or the property in the Goods has not passed to the Buyer. Time for payment shall be of the essence of the Contract

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- 5.3 If the Buyer fails to make any payment in full on the due date the Seller may charge the Buyer interest (both before and after judgement) on the amount unpaid at the rate of 2% per month simple.
- 5.4 The Seller shall be entitled to invoice each delivery of Goods and/or stage of the Services separately.
- 5.5 The Buyer shall pay all sums due to the Seller under this Contract without any set off, deduction, counterclaim or any other withholding of monies.
- 5.6 Payment shall not be deemed to be made until the Seller has received either cash or cleared funds in respect of the full amount outstanding.
- 5.7 If payment in full is not made to the Seller when due then the Seller may withhold or suspend future or current deliveries of the Goods and/or performance of the Services and delivery and/or performance under any other agreement with the Buyer.
- 5.8 If any Services are cancelled or this Contract terminated or delivery and/or performance is suspended before completion of the Services the Seller shall be entitled to be paid on a quantum meruit basis for that part of the Services performed. The Seller may invoice the Buyer accordingly and such monies shall be immediately due for payment.
- 6 FAILURE TO PAY, CANCELLATION OR DEFERMENT**
- 6.1 If the Buyer:-
- 6.1.1 fails to make any payment to the Seller when due;
- 6.1.1 breaches the terms of this Contract and, where the breach is capable of remedy, has not remedied the breach within [14] days of receiving notice requiring the breach to be remedied;
- 6.1.2 persistently breaches the terms of this Contract;
- 6.1.3 pledges or charges any Goods which remain the property of the Seller;
- 6.1.4 ceases or threatens to cease to carry on business;
- 6.1.5 proposes to compound with its creditors, applies for an interim order under Section 252 Insolvency Act 1986 or has a Bankruptcy Petition presented against it;
- 6.1.6 being a Seller, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver appointed over all or any of its assets;
- 6.1.7 takes or suffers similar action in any jurisdiction;
- 6.1.8 appears to the Seller due to the Buyer's credit rating to be financially inadequate to meet its obligations under the Contract;
- 6.1.9 appears reasonably to the Seller to be about to suffer any of the above events;
- then the Seller shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 6.2 below.
- 6.2 If any of the events set out in clause 6.1 above occurs in relation to the Buyer then:-
- 6.2.1 the Seller may enter, without prior notice, any premises of the Buyer (or premises of third parties with their consent) where Goods owned by the Seller may be and to repossess and dispose of or sell any Goods found which are owned by the Seller so as to discharge any sums due to the Seller under this Contract or any other agreement with the Buyer;
- 6.2.2 the Seller may require the Buyer not to re-sell or part with the possession of any Goods owned by the Seller until the Buyer has paid in full all sums due to the Seller under this Contract or any other agreement with the Buyer;

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- 6.2.3 the Seller may withhold delivery of any undelivered Goods and stop any Goods in transit;
- 6.2.4 the Seller may withhold the performance of any Services and cease any Services in progress;
- 6.2.5 the Seller may cancel, terminate and/or suspend without liability to the Buyer any contract with the Buyer; and/or
- 6.2.6 all monies owed by the Buyer to the Seller shall forthwith become due and payable.
- 6.3 The Seller shall have a lien over all property or goods belonging to the Buyer which may be in the Seller's possession in respect of all sums due from the Buyer to the Seller.
- 6.4 Upon the termination of the Contract for any reason if any monies due to the Seller from the Buyer have not been paid within 14 days of such termination the Seller may sell any property or goods over which it has a lien in accordance with clause 6.3 above (and the Buyer agrees that the Seller may give good title for such property and/or goods) and shall apply the proceeds of sale firstly in discharging any costs or expenses of sale, secondly in repaying any interest owed by the Buyer to the Seller, thirdly in payment of any principal sums owed to the Seller and fourthly the Seller shall account to the Buyer for the remainder (if any).
- 7 DELIVERY**
- 7.1 The Buyer will give the Seller all necessary instructions and approval for carrying out the Services and delivering the Goods (including notification of any restriction of access) within seven days of notification that the Seller is ready to carry out the Services or deliver the Goods (as the case may be.) Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place
- 7.2 Any dates quoted for completion of the Services or delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods or completion of the Services howsoever caused. Time for delivery shall not be of the essence. The Services may be performed and the Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer
- 7.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated
- 7.4 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:
- 7.4.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- 7.4.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract
- 7.5 Where Services are to be performed in stages, each separate stage shall constitute a separate and distinct contract and failure by the Seller to deliver, or any claim by the Buyer in

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- respect of, any stage shall not entitle the Buyer to repudiate this Contract as a whole.
- 7.6 The Buyer shall be responsible at its own cost for all arrangements to unload the Goods when delivered to the Buyer.
- 7.7 The Buyer shall procure during normal working hours that the Seller has free right of access to the address for delivery for the purpose of delivering the Goods.
- 7.8 If the Buyer refuses to take delivery of any Goods and/or to allow performance of the Services then the Seller shall be entitled to withhold delivery and/or performance of any other Goods and/or Services and to treat this Contract as repudiated by the Buyer and the terms of Clause 5.1 shall apply.
- 7.9 If the parties agree that the Goods are to be collected from the Seller's premises then the Buyer shall collect the Goods within 3 working days of being notified that the Goods are ready for collection. If the Goods are not collected by the Buyer within the specified period the Seller may despatch the Goods to the Buyer at the Buyer's expense and risk and/or store the Goods at the Buyer's expense and risk until despatch and/or collection.
- 7.10 Where delivery of the Goods and/or performance of the Services is postponed at the Buyer's request then the Buyer shall pay all costs and expenses of the Seller incurred as a result including reasonable charges for storage, transportation and insurance. In addition the Buyer shall be obliged to pay for the Goods and/or Services as if delivery and/or performance had not been postponed.
- 8. RISK AND PROPERTY**
- 8.1 Risk in the Goods shall pass to the Buyer at the time of delivery. Delivery shall be deemed to occur:-
- 8.1.1 at the time when the Goods arrive at the place of delivery if the Seller delivers the Goods by its own transport or it arranges transport in accordance with a specific contractual obligation; or
- 8.1.2 when the Goods leave the Seller's premises; or
- 8.1.3 after the expiration of 3 days after the Buyer has been notified if the Goods are available for collection from the Seller.
- 8.2 The following provision shall apply to all goods which under the Contract the Seller agrees to supply to the Buyer. No failure by the Seller to enforce strict compliance by the Buyer with such provisions shall constitute a waiver thereof and no termination of the Contract shall prejudice limit or extinguish the Seller's right under this paragraph
- 8.2.1 Upon delivery of the Goods the Buyer shall hold the Goods solely as bailee for the Seller and the Goods shall remain the property of the Seller until such time as the Buyer shall have paid to the Seller the full purchase price thereof. Until such time the Seller shall be entitled to recover the Goods or any part thereof and for the purpose of exercising such rights the Seller its employees and agents with appropriate transport may enter upon the Buyer's premises and any other location where the Goods are situated and remove the Goods from any property to which they are attached or into which they have been incorporated
- 8.2.2 The Buyer is hereby licensed to sell on the Goods. The Buyer shall, immediately upon receipt of the proceeds of sale, and whether or not payment has become due under clause 5 hereof, remit to the Seller the full purchase price of the Goods sold on less any part thereof which has already been paid and until such amount has been so remitted shall hold such amount as trustee and agent for the Seller
- 8.2.3 The Buyer shall maintain all appropriate insurance in respect of the Goods from the date or dates on which the risk therein passes to him. In the event of any loss or damage occurring while the Goods remain the property of the Seller the Buyer shall immediately on receipt of the insurance monies, remit to the Seller the full purchase price of the goods lost or

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damaged loss any part thereof which has already been paid and until such amount has been so remitted shall hold such amount as trustee and agent for the Seller. For the avoidance of doubt the provisions of this sub-clause do not affect the Buyer's obligations under clause 5 hereof

- 8.2.4 The licence granted under sub-clause 8.2.2 above shall be terminable forthwith at any time upon notice by the Seller to the Buyer
- 8.3 Risk of damage to or loss of the Goods utilised in the Services shall pass to the Buyer once utilised in the performance of the Services.

9. WARRANTIES AND LIABILITY

- 9.1 The Buyer will carefully examine the Goods on receipt and notify the Seller and the carrier immediately of any damage or shortage. Within 3 days of receipt or (in the case of total loss) of receipt of the invoice or other notification of despatch the Buyer will give the Seller written confirmation of the damage, loss or shortage. Within 14 days of request the Buyer will provide authority for the Seller's servants or agents to inspect any damaged goods. The Seller's liability if any will be limited to replacing or (at its option) repairing such goods. The Seller will have no liability for any other direct or consequential loss arising out of such damage, loss or shortage.
- 9.2 In these Conditions "liability" means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs including legal costs and any other losses and/or liabilities.
- 9.3 The Seller will at its option either refund the price, repair, replace free of charge or re-perform any defective Goods and/or Services where the defect is apparent on inspection provided that the defect is notified to the Seller within 14 working days of delivery of such Goods or performance of the Services and accepted by the Seller.
- 9.4 Any defective Goods must be returned to the Seller for inspection if requested by the Seller before the Seller will have any liability for defective Goods. If the Goods shall prove to be defective then the Seller

shall reimburse the Buyer for the cost of returning the defective Goods.

- 9.5 The Seller, if it requests, shall have the right to inspect the subject matter of any allegedly defective Services, and the Seller will not have any liability for defective Services until it has been allowed to make such inspection.
- 9.6 The Seller will replace, repair free of charge, re-perform or refund the price of defective Goods and/or Services which are not notified to the Seller within the specified time limit where in the opinion of the Seller the defect would not have been ascertainable on inspection and has been notified to the Seller as soon as reasonably practicable.
- 9.7 The Seller will at its option either refund the price of or replace free of charge any Goods missing from a delivery of Goods provided that the missing items are notified to the Seller within 5 working days of delivery or an event of total non-delivery this fact is notified to the Seller within 5 working days of receipt of the invoice by the Buyer.
- 9.8 The Seller shall have no liability for any defect in Goods caused or contributed to as a result of Goods being used for display or demonstration purposes or being handled by buyers of the Buyer.
- 9.9 The Seller shall have no liability for defective Goods and/or Services where the defect has been caused or contributed to by the Buyer.
- 9.10 The Seller shall have no liability to the Buyer if the price for the Goods and/or the Services has not been paid in full by the due date for payment.
- 9.11 The Seller shall have no liability to the Buyer for defective Goods and/or Services, Goods not despatched or Goods damaged or lost in transit unless the event is notified to the Seller within the appropriate time limit set out in this Contract.
- 9.12 The Seller shall have no liability for additional damage, loss, liability, claims, costs or expenses caused or contributed to by the Buyer's continued use of defective Goods and/or Services after a defect has become apparent or

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- suspected or should reasonably have become apparent to the Buyer.
- 9.13 The Buyer shall give the Seller a reasonable opportunity to remedy any matter for which the Seller is liable before the Buyer incurs any costs and/or expenses in remedying the matter itself. If the Buyer does not do so the Seller shall have no liability to the Buyer.
- 9.14 The Buyer shall produce to the Seller written evidence of any claims for which it is alleged that the Seller is liable together with written details of how loss was caused by the Seller and the steps the Buyer has taken to mitigate the loss before the Seller shall have any liability for the claim by the Buyer.
- 9.15 The Seller shall have no liability to the Buyer insofar as it is covered by any policy of insurance of the Buyer and the Buyer shall ensure that the Buyer's insurers waive any rights of subrogation they may have against the Seller.
- 9.16 The Seller shall have no liability to the Buyer for any:-
- 9.16.1 consequential, financial, economic and/or other similar losses (including loss of profits and/or damage to goodwill); and/or
- 9.16.2 special damages and indirect losses; and/or
- 9.16.3 business interruption, loss of business, contracts and/or opportunity.
- 9.17 The Buyer shall be under a duty to mitigate any loss, damage, costs or expenses that it may suffer.
- 9.18 The Seller's total liability to the Buyer in relation to any one claim shall not exceed £{ }.
- 9.19 Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:
- 9.19.1 liability for breach of contract;
- 9.19.2 liability in tort (including negligence); and
- 9.19.3 liability for breach of statutory duty;
- except this clause which shall apply once only in respect of all the said types of liability.
- 9.20 Nothing in the Contract shall exclude or limit the liability of the Seller for death or personal injury due to its negligence or any liability which is due to fraud or any other liability which it is not permitted to be excluded or limited as a matter of law.
- 9.21 Nothing in this Contract shall exclude or limit any statutory rights of the Buyer which may not be excluded or limited due to the Buyer acting as a consumer.
- 9.22 The limitations in this Contract are necessary in order to allow the Seller to provide the Goods and/or the Services at its current prices.
- 9.23 If the Buyer requires greater protection then the Seller will agree to modify the limitations and extend its guarantees in return for the payment of a higher price for the Goods and/or Services.

10. INTELLECTUAL PROPERTY

- 10.1 If any claim is made against the Buyer that the Goods infringe or that their use of resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, the Seller shall indemnify the Buyer against all loss, damages costs and expenses awarded or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:
- 10.1.1 the Seller is given full control of any proceedings or negotiations in connection with any such claim;
- 10.1.2 the Buyer shall give the Seller all reasonable assistance for the purpose of any such proceedings or negotiations;
- 10.1.3 except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the

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- consent of the Seller (which shall not be unreasonably withhold);
- 10.1.4 the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);
- 10.1.5 the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the Buyer (which consent not be unreasonably withhold) to be paid by any other party in respect of any such claim; and
- 10.1.6 without prejudice to any duty of the Buyer at common law, the Seller shall entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.
- 10.2 The Buyer shall not make any modification to the Goods or their packaging, nor alter, remove, or tamper with any trade marks used on or in relation to the Goods and/or Services.
- 10.3 The Seller shall be free to utilise for the benefit of its other Buyers any skill and/or know-how that it may develop or acquire in the performance of the Services.
- 10.4 The Buyer agrees that it will keep confidential and not use except for purposes contemplated by this Contract all information relating to the Goods and/or the Services which may be disclosed to it or which it may learn except where such information is public knowledge or it is required to be disclosed by law.
- 10.5 The Buyer hereby undertakes to indemnify the Seller against any loss, damages or expenses incurred by the Seller (including legal costs) arising from any claim being made against the Seller in respect of a breach of any intellectual property rights of a third party which arises as a result of any act or omission on the part of the Buyer in instructing the Seller on the specification for the Goods.
- 10.6 Where any specifications and designs of the Goods or any packaging of the Goods have been provided by the Seller, the copyright, design right or other intellectual property in them shall as between the parties remain the property of the Seller.
- 11. HEALTH AND SAFETY**
- 11.1 Insofar as the Seller is under a duty pursuant to any legislation, codes of practice or other regulations in respect of the design manufacture and supply of any article for use at work the Buyer shall be deemed to have been afforded by the Seller reasonable opportunity for the testing and examination of the Goods or prior to delivery to the Buyer in respect of their safety and any risk to health and the Buyer shall be deemed to have been afforded by the Seller adequate information about the Goods in respect of the use for which they are designed and have been tested and of any conditions necessary to ensure that when put to use they will be safe and without risk to health whether or not the said information has been requested by the Buyer
- 11.2 The Buyer warrants that it will pass on to all third parties to whom it may supply the Goods or who may be affected by the use of the Goods all information as to the use and safe handling of the Goods which has been supplied with the Goods whether or not such information has been supplied by the Seller
- 12. EXPORT**
- 12.1 If the Contract is an International Supply Contract it shall be deemed to incorporate the later edition of Incoterms current at the date of the Contract save that in the event of any inconsistency between Incoterms and any express term of the Contract the latter shall prevail. The Seller shall be under no obligation to give the Buyer the notice specified in section 32 (3) of the Sale of Goods Act 1979 or any statutory successor of such provision.

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- 12.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon. all loss or damage however caused otherwise then by reason of the neglect or default of the Seller its employees or agents
- 13. INSTALLATION AND OTHER SERVICES**
- 13.1 If under the Contract the installation, testing, or servicing of the Goods or any other goods is to be carried out by or under the supervision of the Seller, the Buyer warrants that it will make all necessary preparations to the site by such dates as may be specified in the Contract or reasonably required by the Seller and that it will provide suitable access to and possession of the site, suitable protection of the Goods from the time of delivery and all information and facilities required to enable the Seller to perform its obligations
- 13.2 The Seller will indemnify the Buyer in respect of any direct damage to property (but not indirect loss, economic loss or loss of profits) caused in the course of installation, testing, servicing or repair by the negligence of the Seller or the negligence or wilful default of its servants or agents Provided That the Seller's liability hereunder shall not exceed the sum of £500 for any event or connected series of events.
- 13.3 Any persons provided by the Buyer to assist in the performance of Services shall be deemed to be an employee of the Buyer and the Buyer shall indemnify Seller against all and any claim, demand, costs, charges or expenses in respect of claims arising in respect of such persons or due to the act or default of such persons save where the same is due to the negligence of the Seller or its agents
- 13.4 The Buyer will indemnify the Seller against any claim arising out of any instruction given by the Buyer save where the claim arises due to the negligence of the Seller or its agents
- 13.5 The Buyer shall insure to the full value thereof and provide adequate protection for all machinery and equipment of the Seller and all plant, machinery, materials and the Goods on site during the course of the installation and until removal against
- 14. GENERAL**
- 14.1 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision
- 14.2 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision of these Conditions and the remainder of the provision in question shall not be affected thereby
- 14.3 The Contract shall be governed by the laws of England and in the event of a dispute the Buyer and the Seller agree to submit to the jurisdiction of the English courts
- 14.4 The Buyer agrees to indemnify and keep indemnified the Seller against all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), claims, actions and any other losses and/or liabilities arising from or due to any breach of contract, any tortious act and/or omission and/or any breach of statutory duty by the Buyer.
- 14.5 The Seller shall not be liable to the Buyer for any delay in performance of this Contract to the extent that that such delay is due to any events outside the Seller's reasonable control including but not limited to acts of God, war, flood, labour disputes, strikes, lock-outs, riots, civil commotion, malicious damage, explosion, fire, governmental actions and any other similar events. If the Seller is affected by any such event then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.