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**TERMS AND CONDITIONS OF BUSINESS  
OF ERUD I.T. LIMITED**

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## TERMS AND CONDITIONS OF BUSINESS

**We recommend that you read these Conditions carefully and keep a copy for future reference. These Conditions will govern any Contract that the Company makes with you. These Conditions do not affect your statutory or common law rights.**

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

In these Terms and Conditions of Business (the "**Conditions**") the following words and expressions are expressly defined and shall have the following meanings:

**"Buyer"** means the person, firm or company who purchases Goods and/or Services from the Company;

**"Company"** means Erud I.T. Limited, a company incorporated in England and Wales (registered number 5392907) and whose registered office is at Newton House, Newton Road, Hinckley, Leicestershire LE10 3DS;

**"Contract"** means any contract between the Company and the Buyer for the sale and purchase of Goods and/or the provision of Services, incorporating these Conditions;

**"Delivery Point"** means the place where delivery of the Goods is to take place pursuant to Condition 4;

**"Goods"** means any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them); and

**"Services"** means any services agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

#### **1.2 Interpretation**

In these Conditions, save where the context otherwise requires:

1.2.1 the singular includes the plural and vice versa and a reference to any gender includes a reference to all other genders;

1.2.2 headings and the use of bold typeface shall be ignored;

1.2.3 "or" shall be construed as "and/or" where appropriate; and vice-versa;

1.2.4 a reference to a statute or statutory provision shall include a reference:

(A) to that statute or provision as from time to time consolidated, modified, re-enacted or replaced by any statute or statutory provision;

(B) to any repealed statute or statutory provision which it re-enacts (with or without modification); and

(C) any subordinate legislation made under the relevant statute;

1.2.5 if a period of time is specified and dates from a given day or the day of an act or event, it shall be calculated exclusive of that day;

1.2.6 a reference to a person includes a reference to a firm or a body corporate; and

1.2.7 references to writing shall include any modes of reproducing words in a legible and non-transitory form.

## **2. CONTRACTS**

2.1 The Contract shall be made (and without limitation orders shall only be accepted) on and subject to these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These Conditions apply to all the Company's sales and any variation to these Conditions and any representations about any of the Company's Goods and/or Services shall have no effect unless expressly agreed in writing by both the Company and the Buyer. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.

2.4 Each order or purported acceptance of a quotation for Goods and/or Services by the Buyer to the Company shall be deemed to be an offer by the Buyer to purchase the said Goods and/or Services from the Company subject to these Conditions.

2.5 Any quotation, estimate or tender previously given or made by the Company (including the contents of the Company's website) shall not be deemed to be an offer but rather an invitation to treat.

2.6 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer and/or performs the Services for the Buyer.

2.7 The Company may, at its absolute discretion, accept or reject any order for Goods and/or Services placed by the Buyer.

2.8 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

2.9 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or

information issued by the Company shall be subject to correction without any liability on the part of the Company.

### **3. DESCRIPTION**

- 3.1 The quantity and description of the Goods and/or the Services shall be as set out in the Company's written acknowledgement of order.
- 3.2 All samples, colour charts, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's website, catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Goods and/or Services described in them, and (in the case of Goods) are not to scale. The said matters shall not form part of the Contract and no sale of Goods is a sale by sample. No responsibility is accepted by the Company for any errors or omissions in any of the said matters or for any loss or damage resulting from reliance on them, and the Company reserves the right to correct any such errors or omissions without any liability on the part of the Company.

### **4. DELIVERY OF GOODS AND SUPPLY OF SERVICES**

- 4.1 Unless otherwise agreed in writing by the Company, delivery of any Goods shall take place at the Company's place of business and the Buyer shall take delivery of the Goods within 7 days of the Company giving it notice that the Goods are ready for delivery.
- 4.2 Any dates quoted by the Company for delivery of the Goods and/or supply of Services are approximate only and intended to be an estimate. Time for delivery of Goods and/or supply of Services shall not be made of the essence by notice and time for delivery of Goods and/or supply of Services may only be made of the essence if expressly agreed by the Company in writing within a written acknowledgement of order issued by the Company. If no dates are so specified, delivery shall be within a reasonable time.
- 4.3 Subject to the other provisions of these Conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of contracts, damage to property, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods and/or supply of Services (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 90 days.
- 4.4 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations then without prejudice to any other right or remedy available to the Company:
  - 4.4.1 risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);

- 4.4.2 the Goods shall be deemed to have been delivered; and
- 4.4.3 the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.5 Where the Delivery Point is agreed in writing by the Company to be a place other than the Company's place of business, the Company's obligation is then only to deliver as near to the Delivery Point as safe hard roads permit.
- 4.6 The Buyer shall provide at the Delivery Point adequate and appropriate equipment and manual labour for loading and stacking the Goods at the Buyer's expense.
- 4.7 The Company may deliver the Goods by separate instalments and in such event each separate instalment shall:
  - 4.7.1 be a separate Contract and:
    - (A) no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment; and
    - (B) the Company may withhold the delivery of any other instalment or Contract until Goods contained in any earlier instalment or Contract have been paid for in full; and
  - 4.7.2 be invoiced and paid for in accordance with the provisions of the Contract.
- 4.8 The Buyer shall not be entitled to accept part only of the Goods.

## **5. NON-DELIVERY OF GOODS**

- 5.1 The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.
- 5.2 On delivery, the Buyer shall examine the Goods for defects and completeness. In all cases a signature stating 'unexamined' or like words shall be deemed to be an unconditional acceptance of the Goods.
- 5.3 The Company shall not be liable for any shortage in delivery of Goods, for loss of Goods or for non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of such shortage in delivery, loss of Goods or non-delivery of Goods (as applicable), within 7 days of the date when the Goods would in the ordinary course of events have been received.
- 5.4 Any liability of the Company for shortage in delivery of Goods, loss of Goods or non-delivery of Goods shall be limited to replacing the Goods within a reasonable time or (at the Company's sole option) issuing a credit note or

refunding the price at the *pro rata* Contract rate against any invoice raised for such Goods.

- 5.5 Subject as stated in Condition 5.4 and subject to the other provisions of these Conditions, the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of contracts, damage to property, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any shortage in delivery of Goods, loss of Goods or non-delivery of Goods (even if caused by the Company's negligence).

## **6. RISK AND TITLE**

- 6.1 The Goods are at the risk of the Buyer from the time of delivery.
- 6.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions, ownership of the Goods and/or property in the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- 6.2.1 the Goods; and
  - 6.2.2 all other sums which are or which become due to the Company from the Buyer on any account (including without limitation as a result of the provision of services).
- 6.3 Until such time as ownership of the Goods and/or property in the Goods passes to the Buyer, the Buyer shall:
- 6.3.1 hold the Goods as the Company's fiduciary agent and bailee;
  - 6.3.2 store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
  - 6.3.3 not sell the Goods;
  - 6.3.4 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
  - 6.3.5 maintain the Goods in satisfactory condition and keep them protected and insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall promptly produce the policy of insurance to the Company.
- 6.4 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 6.5 The Buyer's right to possession of the Goods shall terminate immediately if:
- 6.5.1 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with creditors, or otherwise takes the

benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

6.5.2 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or

6.5.3 the Buyer encumbers or in any way charges any of the Goods.

6.6 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

6.7 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold (in breach of contract) all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

6.8 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this Condition 6 shall remain in effect.

## **7. PRICES**

7.1 The price for Goods and/or Services:

7.1.1 shall (in the case of Goods) be the price set out in the Company's price list published on the date of delivery or deemed delivery or (if different) the price set out in the Company's written acknowledgement of order; and

7.1.2 shall (in the case of Services) be the price set out in the Company's written acknowledgement of order or (if there is no such price set out) the price the Company would customarily charge for such Services; and

7.1.3 shall (unless the written acknowledgement of order states otherwise) be exclusive of:

- (A) any value added tax;
- (B) all costs or charges in relation to packaging, loading, unloading, carriage and insurance;
- (C) any other sales tax or excise duties paid or payable by the Company;

all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

## **8. TERMS OF PAYMENT**

- 8.1 Unless credit facilities have been granted to the Buyer pursuant to Condition 10, payment of the price for the Goods and/or the Services shall be due from the Buyer in cash in pounds sterling at the earlier of delivery of the Goods by the Company or provision of the said Services by the Company.
- 8.2 Time for payment shall be of the essence.
- 8.3 No payment shall be deemed to have been received until the Company has received cleared funds.
- 8.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 8.5 Unless otherwise expressly agreed upon in writing, no other discounts or commissions are to become due or allowable to the Buyer (any previous course of dealing between the parties notwithstanding) and in all cases the Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid Court Order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

## **9. LATE PAYMENT**

- 9.1 If the Buyer fails to pay the Company any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of Royal Bank of Scotland Plc, accruing on a daily basis until payment is made, whether before or after any judgment.
- 9.2 When payment of any of the Company's invoices is overdue, the Company may suspend its performance of the Contract(s) to which the invoice relates and/or of any other Contract then subsisting between the Company and the Buyer.
- 9.3 In the event of legal action being taken by the Company against the Buyer for breach of payment obligations hereunder, the Buyer shall be responsible for all costs and disbursements incurred by the Company on a full indemnity basis.

## **10. CREDIT FACILITY**

- 10.1 Where the Company agrees (at its sole discretion) to grant the Buyer a credit facility, payment of the price for the Goods and/or the Services shall be due from the Buyer in pounds sterling within 30 days from the date on which an invoice in respect of the Goods and/or the Services is issued from the Company to the Buyer following delivery of the Goods or provision of the Services or, if the Company shall so require pursuant to Condition 10.2, to be paid on demand without any period of notice.
- 10.2 The Company reserves the right to withdraw or vary credit facilities at any time by summary written notice to the Buyer without either giving any reason for so doing, or thereby incurring any liability to the Buyer. For the avoidance of any doubt the prior practice of the Company to grant credit shall in no way imply that future advances of credit will be granted and/or bind the Company in any way to make future advances of credit.
- 10.3 If the Buyer proposes to take Goods and/or Services from the Company in excess of the Buyer's credit limit, the Company may require payment in pounds sterling for such excess of Goods and/or Services at the earlier of delivery of the Goods by the Company or upon the provision of the Services.

## **11. QUALITY**

- 11.1 The following shall apply as regards Goods supplied by the Company:
- 11.1.1 The Company shall, where it deems it appropriate, endeavour to pass on to the Buyer the manufacturer's warranty in respect of Goods supplied.
- 11.1.2 In addition to the provisions of the foregoing Condition 11.1.1, in the case of Goods which comprise a new computer system manufactured by the Company the Company warrants that (subject to the other provisions of these Conditions) upon delivery, and for a period of 12 months from the date of delivery, the said new computer system supplied shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 11.1.3 In addition to the provisions of the foregoing Condition 11.1.1, in the case of Goods which comprise a reconditioned computer system re-manufactured or otherwise reconditioned by the Company the Company warrants that (subject to the other provisions of these Conditions) upon delivery, and for a period of 30 days from the date of delivery, the said new computer system supplied shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 11.2 In addition to the warranties set out at Condition 11.1, the Company warrants that (subject to the other provisions of these Conditions) the performance of the Services shall be conducted with reasonable care and skill and subject to these Conditions the Company will rectify any defects caused by the Services not having been conducted with reasonable care and skill provided that the defects are notified within a period of 12 months from the date of the performance of the Services.

- 11.3 The Company shall not be liable for a breach of the warranties in Condition 11.1 unless:
- 11.3.1 the Buyer gives written notice of the defect to the Company, and to the carrier if the defect is as a result of damage in transit, within 7 days of the time when the Buyer discovers or ought to have discovered the defect; and
  - 11.3.2 the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost (should the notice of defect prove accurate, or at the Buyer's cost if not) for the examination to take place there.
- 11.4 The Company shall not be liable for a breach of the warranties in Condition 11.1 if:
- 11.4.1 the Buyer makes any further use of such Goods after giving such notice; or
  - 11.4.2 the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
  - 11.4.3 the Buyer alters or repairs such Goods without the written consent of the Company.
- 11.5 Subject to Condition 11.3 and Condition 11.4, if any of the Goods do not conform with the warranties in Condition 11.1 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the *pro rata* Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's cost (should the notice of defect prove accurate, or at the Buyer's cost if not), return the Goods or the part of such Goods which is defective to the Company.
- 11.6 If the Company complies with Condition 11.5 it shall have no further liability for a breach of the warranties in Condition 11.1 in respect of such Goods.
- 11.7 Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the period of the warranties in Condition 11.1.

## **12. PROVISION OF SERVICES**

- 12.1 In the provision of Services:
- 12.1.1 under no circumstances shall the Company be, or become, liable for pre-existing defects at the Buyer's premises or of the Buyer's property; and
  - 12.1.2 the Company does not undertake to move utility services, fixtures or fittings which are ancillary to the basic structure of the property, such

as radiators, pipes and electricity, telephone or television cables unless specifically stated in the written acknowledgement of order.

- 12.2 In respect of the installation of any Goods and/or the provision of any Services, the Buyer is responsible for:
  - 12.2.1 providing such access to premises and facilities as may be reasonably required by the Company for the purpose of providing the Services;
  - 12.2.2 providing such information as may be required by the Company for the purpose of providing the Services, and ensuring that all such information is correct and accurate;
  - 12.2.3 ensuring that all necessary safety and security precautions are in place at the premises or property where Services are to be performed; and
  - 12.2.4 damage to any Goods occasioned by the Buyer or those working for the Buyer.
- 12.3 Contracts and orders and parts thereof may be cancelled only by the Company's written acceptance of such cancellation, save that:
  - 12.3.1 where the Company accepts such cancellation, the Company reserves the right to charge the Buyer with the amount of any losses or expenses directly or indirectly resulting from such cancellation; it being agreed that in most instances such charges shall be a minimum of an administration fee representing 20% of the value of the Goods and/or Services but which charges may be considerably higher at the (sole) election of the Company
  - 12.3.2 where the Company does not accept such cancellation, subject to the effect of the other Conditions contained herein, the Company reserves the right to recover the full price from the Buyer and to charge the Buyer with additional losses both direct and indirect resulting from such cancellation; and
  - 12.3.3 in any case where the Company was required to place a deposit with a manufacturer or supplier in respect of an order, the Company may require the Buyer to reimburse such sum in the event of cancellation.
- 12.4 Should the Buyer make a purported warranty claim pursuant to Condition 11.1 or 11.2 hereof and should it transpire after examination that there is actually no defect for which the Company is liable or responsible, the Company shall be at liberty and may at its (sole) option elect to charge for any time incurred by its representatives at the Company's usual hourly rates in respect thereof.
- 12.5 Should the Buyer make a successful warranty claim pursuant to Condition 11.1.1 hereof in respect of which Goods are replaced or repaired under a manufacturer's warranty pursuant to Condition 11.1.1, if the Buyer requests the Company to install those replacement or repaired Goods the Company shall be at liberty and may at its (sole) option elect to charge for any time incurred by its representatives at the Company's usual hourly rates in respect of such installation.

### **13. LIMITATION OF LIABILITY**

13.1 Subject to Conditions 4, 5, 11 12, 14, 15, 17 and 18, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-Contractors) to the Buyer in respect of:

13.1.1 any breach of these Conditions;

13.1.2 any defect in the Goods and/or the Services;

13.1.3 any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and

13.1.4 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

13.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982) are, to the fullest extent permitted by law, excluded from the Contract.

13.3 The Company shall not be or become liable in any respect as regards:

13.3.1 any default of, or caused by, the Buyer;

13.3.2 any computer viruses (including without limitation worms and Trojan Horses), malware (including without limitation pop-ups, adware or spyware), automatic software updates (whether or not accepted via Company personnel, representatives, agents or subcontractors) or the like, whether or not the same can be proved to have been present in the Buyer's computer systems prior to Services being performed and/or Goods supplied;

13.3.3 any failure of any third party system or machinery, including without limitation of broadband and/or ISP services and/or telephony services;

13.3.4 any data loss resulting from the performance by the Company of the instructions of the Buyer;

13.3.5 any failure by the Buyer to maintain duplicate or back-up copies of its computer system and/or files (it being expressly agreed that it is the Buyer's responsibility to maintain such duplicate or back-up copies); and/or

13.3.6 the disposal of any computer systems, computer products or any waste product associated with the Goods and/or the Services (save where the Company expressly agrees to the contrary in writing upon payment of an agreed additional fee).

13.4 Nothing in these Conditions excludes or limits the liability of the Company:

13.4.1 for death or personal injury caused by the Company's negligence;

13.4.2 under section 2(3) of the Consumer Protection Act 1987;

13.4.3 for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

13.4.4 for fraud or fraudulent misrepresentation.

13.5 Subject to Conditions 13.2, 13.3 and 13.4:

13.5.1 the Company's total liability in contract, tort (including without limitation negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and

13.5.2 the Company shall not be liable to the Buyer for any pure economic loss, loss of profits, loss of business, loss of contracts, damage to property, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

#### **14. FORCE MAJEURE**

14.1 The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods and/or the Services, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:

14.1.1 act of God, explosion, flood, tempest, fire or accident, including without limitation lightning;

14.1.2 war or threat of war, national emergency, sabotage, terrorism, insurrection, protest, riot, epidemic, civil disturbance or requisition;

14.1.3 Acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

14.1.4 import or export regulations or embargoes;

14.1.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);

14.1.6 restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials; and

14.1.7 power failure or breakdown in machinery.

## **15. INSOLVENCY**

The Company shall have the right to terminate the Contract forthwith in any of the circumstances outlined in Condition 6.5 in any of which cases the Company shall have no further obligation hereunder and the price for all Goods delivered and Services performed and to be performed shall become immediately due and payable.

## **16. ASSIGNMENT**

16.1 The Company may assign and/or subcontract the Contract or any part of it to any person, firm or company.

16.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

## **17. WAIVER**

17.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

17.2 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

17.3 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

## **18. SEVERANCE**

18.1 If any provision of the Contract (or part of a provision) is found by any Court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

18.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

## **19. THIRD PARTY RIGHTS**

Without prejudice to Condition 16.1, no term of any Contract formed between the Buyer and the Company shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

## **20. COMMUNICATIONS**

20.1 All communications between the Buyer and the Company about or in connection with the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission:

20.1.1 (in case of communications to the Company) to its main place of business or such changed address as shall be notified to the Buyer by the Company; or

20.1.2 (in the case of communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified in writing to the Company by the Buyer.

20.2 Communications shall be deemed to have been received:

20.2.1 if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

20.2.2 if delivered by hand, on the day of delivery; or

20.2.3 if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

## **21. APPLICABLE LAW**

21.1 These Conditions and/or the Contract and any disputes or claims arising out of or in connection with their subject matter are governed by and construed in accordance with the law of England.

21.2 The Buyer and the Company irrevocably agree that the Courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Conditions and/or the Contract.

**The Buyer signs below to confirm that he has read and understood the above Conditions, and to agree that the Conditions will be incorporated into the Contract to the exclusion of any other terms and conditions:**

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**Signature**

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**[Name of duly authorised signatory, for and on behalf of]**

**Name of Buyer (block capitals):**

**Date:    /    /20**