

**MODULEK**  
**Standard Terms for the Supply of Products and Services**

**1. INTERPRETATION**

1.1 Definitions to apply in this agreement:

<b>Conditions</b>	these terms and conditions as amended from time to time in accordance with clause 2.7.
<b>Contract:</b>	the contract constituted by the Written Proposal and these Conditions, entered into between the Supplier and the Customer for the supply of the Products and/or the Services.
<b>Core Hours:</b>	between 9am and 5pm Monday to Friday but excluding public or bank holidays.
<b>Currency:</b>	UK Pounds Sterling or such other currency as set out in the Written Proposal.
<b>Customer:</b>	the person, firm or company (details of which are set out in the Written Proposal) who directly purchases Products and/or Services from the Supplier, whether for its own benefit, the benefit of a third party End User or otherwise.
<b>Default Event:</b>	means any of the events described in clauses 15.2.1 - 15.2.9.
<b>Data Protection Legislation</b>	all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long and to the extent that the law of the European Union has legal effect in the UK).
<b>Delivery / Delivered:</b>	means the actual physical delivery of the Products to the Customer or the Customer's agent or carrier or the End User.
<b>Delivery Point:</b>	the place, delivery agent or carrier specified in the Written Proposal.
<b>End User:</b>	the person, firm or company as more fully described in the Written Proposal or nominated by the Customer and who is the end user of the Products and/or the Services.
<b>Intellectual Property Rights:</b>	all patents, rights to inventions, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other

intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Order Confirmation:** the Supplier's written confirmation of the Customer's order for Products and/or Services and the coming into being of the Contract.

**Party/ies:** the Customer and the Supplier

**Price:** the price to be charged by the Supplier and to be paid by the Customer for the Products and the provision of the Services as set out in the Written Proposal.

**Products:** the goods to be supplied by the Supplier to the Customer for installation and use at the Customer and / or End User's premises (as relevant) as more fully set out in the Written Proposal.

**Services:** the services, which are ancillary to the supply of the Products, to be provided by the Supplier as more fully set out in the Written Proposal.

**Service Delivery Point:** the place specified in the Written Proposal where the Services are to be provided

**Supplier:** Modulek Ltd whose registered office is 19 Bessemer Close, Ebblake Industrial Estate, Verwood, Dorset BH31 6AZ..

**VAT:** value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax.

**Written Proposal:** a written proposal for the provision of the Products and/or Services issued by the Supplier, which sets out details of the Products and/or the Services to be supplied pursuant to a Contract and the Delivery costs and sets out any assumptions and/or exclusions applicable to the supply of the Products and/or the Services upon which the Price is based.

- 1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.3 Clause headings do not affect the interpretation of these Conditions.
- 1.4 A reference to "writing" or "written" includes email.

**2. CONTRACTING PROCESS**

- 2.1 A Contract shall be subject only to the provisions of these Conditions as read in conjunction with the Written Proposal to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document, whether communicated to the Supplier before or after the date on which the Customer executes the Written Proposal).
- 2.2 By signing and returning the Written Proposal to the Supplier, the Customer shall be taken to have offered to purchase the Products and / or the Services on the terms of these Conditions and the Written Proposal.

**MODULEK**  
**Standard Terms for the Supply of Products and Services**

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- 2.3 If the content of these Conditions conflicts with that of the Written Proposal, then the conflicting provision of the Written Proposal shall prevail.
- 2.4 The Supplier shall communicate acceptance of the Customer's offer referred to in clause 2.2 above by signing and delivering an Order Confirmation to the Customer. Until the Supplier has communicated an Order Confirmation to the Customer no Contract shall be taken to have come into being.
- 2.5 If a Customer signs and returns the Written Proposal or otherwise accepts it, or accepts Delivery of the Products and/or the provision of the Services or uses the Products, then the Customer shall be bound by the provisions of these Conditions and the Written Proposal.
- 2.6 Where the Supplier has issued an Order Confirmation in accordance with clause 2.4 above then, the Customer shall remain bound by the Contract notwithstanding the fact that it may be required, due to the Customer's internal administrative protocols, to issue a purchase order for the purchase of the Products and/or the Services.
- 2.7 Except as set out in these Conditions, no variation to a Contract or these Conditions or any representations made in respect of the Products and/or Services shall be effective unless expressly agreed in writing and signed by an authorised representative of each Party.
- 2.8 The Supplier's obligations under the Contract shall be as set out in these Conditions and the Written Proposal only. The Customer agrees that it has not relied on and that the Supplier shall not be liable for any statement, promise, warranty or representation not set out in the Contract (including but not limited to those made or given by or on behalf of the Supplier, such as specifications, particulars of weight, dimensions, sales proposals, quotations, statements, representations, descriptions or illustrations contained in quotations, sales and marketing material, catalogues and publicity material, all of which are only intended to convey only a general idea of the Products and Services mentioned). Nothing in this clause shall exclude or limit the Supplier's liability for fraudulent misrepresentation.
- 2.9 The Supplier may at its sole and absolute discretion be entitled to amend any quotation or Written Proposal until a Contract has been concluded with that quotation confirmed on the Written Proposal.
- 2.10 Any typographical, clerical or other error or omission in any Contract shall be subject to correction at the sole discretion of the Supplier without any liability on the part of the Supplier.
- 2.11 No Contract may be cancelled by the Customer without the prior written consent of the Supplier. Without limiting any other rights of the Supplier, the Supplier reserves the right to charge the Customer for all losses and expenses incurred as a consequence of any cancelled Contract.
- 2.12 The Customer shall provide the Supplier with such information as it may reasonably require in order to supply the Products and/or Services, and ensure that such information is accurate in all material respects.
- 2.13 The Customer acknowledges that the Supplier's proposal for the provision of the Products and/or Services has been given on the basis of the assumptions and exclusions set out in the Written Proposal. If (a) any of these assumptions are found to be not the case and/or (b) any of these excluded items are subsequently required to be undertaken (or where it is no longer practical or possible for any such excluded items to be undertaken but other measures, works and/or Services are subsequently required to be undertaken as a consequence), then the Supplier reserves the right to increase the Price and extend the estimated time for Delivery and/or for the provision of the Services.
- 3. DELIVERY OF PRODUCTS**
- 3.1 The quantity, description, price and component parts of the Products and the cost of the Delivery thereof (in the case where there is to be a charge for Delivery) shall be as set out in the Written Proposal.
- 3.2 Delivery shall take place during Core Hours at the Delivery Point unless otherwise specified in the Written Proposal.
- 3.3 Any dates specified by the Supplier for Delivery are an estimate only and any attempt to make the time of Delivery the essence of the Contract by notice to that effect shall be invalid.
- 3.4 The Supplier shall not be liable to the Customer for any loss suffered by the Customer (whether direct, indirect or consequential) arising from a delay in Delivery provided such delay was not caused by the wilful misconduct or default of the Supplier.
- 3.5 Where the Products are to be delivered or the Services are to be supplied in instalments then any delay in Delivery of or the performance of any one instalment shall not entitle the Customer to cancel or to repudiate the Contract as a whole.
- 3.6 If the Customer does not accept Delivery of the Products then the Customer shall pay the Supplier any additional costs that the Supplier may incur, including but not limited to all storage costs.
- 3.7 Unless otherwise specified in the Written Proposal, the Customer shall be responsible for the unloading and loading of the Products at the Delivery Point and any personnel supplied by the Supplier for such unloading and/or loading shall be deemed to be under the direction and control of the Customer. Such personnel shall for all purposes in connection with or arising out of their employment in the unloading and / or loading of the Products be regarded as the servants or agents of the Customer who alone shall be responsible for all claims arising in connection with the unloading and/or loading of the Products by or with the assistance of the personnel.
- 3.8 Products should be inspected by the Customer as soon as they are Delivered. The Customer shall indicate any damage to the Products or packaging on the carrier's delivery note at the time of Delivery and the contents and packaging of the Products must be retained for inspection as proof of damage, failing which the Supplier shall have no liability to the Customer for such damage.
- 3.9 The Customer shall:
- 3.9.1 provide the Supplier, its employees, agents, consultants and subcontractors, with safe and suitable access to the Customer's premises and/or Delivery Point or other facilities as the Supplier may reasonably require, including safe and suitable access for the Supplier's or the Supplier's agent's vehicles between the public highway and the actual point of delivery;
- 3.9.2 ensure that if, to effect Delivery, the Supplier's vehicle is required to leave the public highway, the surface of any drive, access road or similar (and any man-lids or ducts) is capable of accepting heavy goods vehicles and there are no obstructions (e.g. trees);
- 3.9.3 obtain and maintain all necessary licences, permissions and consents for the use and /or storage of the Products and which may be required before the date on which the Services are to start or the Products are to be supplied; and
- 3.9.4 comply with the Supplier's reasonable and lawful instructions which may be communicated to the Customer and which are relevant to the Products, Delivery and / or the use of any Products and / or equipment supplied by the Supplier.
- 3.10 The Customer shall be responsible for compliance with all relevant regulations issued by the Government or local authorities; including regulations under the Factories Act, Health and Safety Act and any other relevant statute and observance of the Road Traffic Act should it apply.
- 4. RISK & RETENTION OF TITLE**
- 4.1 Risk in the Products shall pass to the Customer at the Delivery Point.
- 4.2 Title to the Products shall not pass to the Customer until the Supplier has received in full (in cash or cleared funds) all sums due to it in respect of the Products, the Services or under or arising from any other contract or liability owed by the Customer to the Supplier whether under a Contract or otherwise.
- 4.3 Where title to the Products has not yet passed to the Customer then the Customer's right to possession of the Products shall terminate immediately upon the occurrence of a Default Event and, to the extent that it is physically possible to do so, the Customer shall immediately return the Products or cause the Products to be returned to the Supplier.
- 4.4 The Customer grants the Supplier, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
- 4.5 The Supplier shall be entitled to recover payment for the Products notwithstanding that title in the Products has not passed to the Customer.

**MODULEK**  
**Standard Terms for the Supply of Products and Services**

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- 4.6 If, notwithstanding the provisions of clause 4.2, the Customer purports to sell the Products to a third party or End User before the title to the Products passes to the Customer then the Supplier shall, without prejudice to its rights to recover damages, be beneficially entitled to all of the proceeds of that sale received by the Customer from the third party or End User.
- 4.7 On termination of a Contract, howsoever caused, the Supplier's rights contained in this clause 4 shall remain in effect.
- 5. THE SERVICES**
- 5.1 The Services shall be provided to either the Customer or the End User, as the case may be and as confirmed in the Written Proposal.
- 5.2 Any dates for the provision of the Services shall be estimates only and the time for the provision of the Services shall not be of the essence.
- 5.3 The Customer shall provide or otherwise procure that:
- 5.3.1 the Supplier on reasonable notice is granted access to the premises, equipment, infrastructure and staff of the Customer and / or End User as may be reasonably required for the purposes of performing the Services;
- 5.3.2 the Supplier is informed of all health and safety rules and regulations and any other reasonable security requirements applicable to the Supplier in the performance of the Services; and
- 5.3.3 it complies with the reasonable instructions of the Supplier as may be relevant to the Services.
- 5.4 The Supplier reserves the right to engage any approved sub-contractor to fulfil the Services on the Supplier's behalf. The Supplier shall have the sole discretion to approve a sub-contractor.
- 5.5 Unless otherwise agreed in writing the Services shall be performed at the Service Delivery Point.
- 5.6 The Supplier shall be entitled to charge the Customer for any abortive installation or commissioning of the Products where the Customer is the cause of the delay in the fulfilment of the Services.
- 5.7 Upon fulfilment of the Services, and provided that the Product operates materially in accordance with the specifications contained in the Written Proposal, the Supplier shall notify the Customer or the End User (if applicable) of that fact
- 6. CHANGE CONTROL**
- 6.1 If the Customer wishes to change the scope or execution of the Services, it shall submit details of the requested change to the Supplier who shall, within a reasonable time, provide a written estimate to the Customer of:
- 6.1.1 the likely time required to implement the change;
- 6.1.2 any necessary variations to the Supplier's charges arising from the change; and
- 6.1.3 any other impact of the change on the Contract.
- 6.2 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Service, and any other relevant terms of the Contract to take account of the change and these Conditions and/or the Contract have been varied in accordance with clause 2.7.
- 6.3 Notwithstanding clause 6.2, the Supplier may on notice to the Customer cancel the Contract or change the Products and/or the Services or increase its charges for the Products and/or the Services in order to comply with any applicable safety or statutory requirements, or where the provision of the Products and/or the Services are not feasible due to a technical or commercial reason, but provided that such changes do not materially affect the nature and scope of the Products and/or the Services.
- 7. PRICE & PAYMENT**
- 7.1 All sums payable under these Conditions or any Contract are exclusive of any VAT (if applicable) chargeable on the supplies for which such sums (or any part of them) are the whole or part of the consideration for VAT purposes.
- 7.2 All taxes, charges, levies, assessments and other fees of any kind imposed on the purchase of the Products and/or Services and the Delivery thereof under these Conditions or any Contract shall be the responsibility of, and for the account of, the Customer.
- 7.3 The Price shall be paid without deduction, set off, counterclaim, discount, abatement or withholding whatsoever in the Currency in full upon (i) notification being received from the Supplier that the Product is ready for despatch and (ii) the Supplier's invoice being received by the Customer.
- 7.4 The Supplier shall invoice the Customer and the Customer shall pay the Price in accordance with the payment terms set out in the Written Proposal and time for payment of the Price shall be the essence of these Conditions or any Contract.
- 7.5 If the Customer requests any variation to the Products and/or the Services and/or clause 2.13 applies, then the Supplier reserves the right to increase the Price.
- 7.6 The Supplier reserves the right at its sole discretion to terminate the Contract or withhold Delivery or to suspend or terminate the provision of the Services if the Customer fails to pay the Price or any part thereof on the due date for payment and upon such suspension or termination, the full unpaid balance of the Price shall immediately fall due for payment.
- 7.7 Interest on late payments shall be charged by the Supplier at the rate of 8% above the base lending rate from time to time of the Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgement.
- 7.8 All invoices sent under the Contract shall be addressed to the Customer's address as set out in the Written Proposal and may be sent in .pdf format by electronic mail.
- 7.9 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.
- 7.10 The Customer shall indemnify the Supplier against and shall reimburse the Supplier on demand for all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, debt collection costs and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier and which may arise out of or in connection with the Customer's breach or non-performance of the Customer's obligations under the Contract (including but not limited to the duty to pay all amounts due under the Contract) and the Supplier's enforcement of the Contract.
- 8. WARRANTY**
- 8.1 Subject to clauses 8.2 and 9 below, the Supplier warrants that the Products will conform in all material respects with their description as set out in the Written Proposal and be free from material defects in design, materials and workmanship and that all Services will be carried out with reasonable care and skill by personnel whose qualifications and experience will be appropriate for the tasks to which they are allocated.
- 8.2 Unless otherwise specifically stated in the Written Proposal, and subject always to clause 8.3 below, if within the period of 12 months of Delivery or such longer period or periods as may be specifically stated in the Written Proposal, the Products prove to be materially defective under proper use by the Customer and where such defect arises solely as a consequence of defects in design, materials or workmanship on the part of the Supplier and are not due to normal wear and tear then the Supplier will make good the defect by repair or, at its option, by the supply of replacement Products, parts or components thereof.
- 8.3 In the case of any parts or components forming part of the Products not manufactured by the Supplier, the Supplier agrees to pass on to the Customer any warranty or guarantee (if any) which the Supplier may have received from its supplier or manufacturer of such parts or components, but not so as to impose on the Supplier any liability greater than that imposed on the Supplier by clause 8.2.
- 8.4 All warranties, conditions and other terms implied by statute or common law in respect of the sale of Products (save for the conditions implied by section 12 of the Sale of Products Act 1979) and the provision of the Services are, to the fullest extent permitted by law, excluded from the Contract.
- 9. LIMITATION OF LIABILITY**
- THE CUSTOMER'S ATTENTION IS SPECIFICALLY DRAWN TO THE PROVISIONS OF THIS CLAUSE 9.**
- 9.1 This Clause 9 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 9.1.1 any breach by the Supplier of the Contract;

**MODULEK**  
**Standard Terms for the Supply of Products and Services**

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- 9.1.2. any use made by the Customer or its End User of the Products and/or Services and/or any part of them; and
- 9.1.3. any representation, statement or tortious act or omission (including negligence) arising under or in connection with a Contract.
- 9.2 Nothing in these Conditions or a Contract shall be construed as limiting or excluding the liability of the Supplier:
- 9.2.1. for death or personal injury resulting from negligence; or
- 9.2.2. for any damage or liability incurred by the Customer as a result of fraud (including a fraudulent misrepresentation by the Supplier); or
- 9.2.3. for any liability incurred by the Customer as a result of any breach by the Supplier of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Products and Services Act 1982.
- 9.3 Subject to clause 9.2, the Supplier shall not be liable to the Customer or to any End User whatsoever for any loss of profits, loss of business, depletion of goodwill, loss of anticipated savings, loss of contract or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses including, without limitation, the costs of any temporary accommodation, business interruption or professional fees, which may be suffered by the Customer or the End user in consequence of these Conditions or any Contract.
- 9.4 The Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract shall be for the direct and reasonable costs of repair or, at its option, replacement of any parts or components of the Products to the extent that the Customer incurs such costs and/or the Customer is or becomes liable directly for such costs and, for the avoidance of doubt, shall be limited to a sum equivalent to the price paid to the Supplier by the Customer for the Products or Services that are the subject of the claim.
- 10. CUSTOMER'S FAIR DEALING WARRANTY**  
The Customer warrants that it has acquired and holds all necessary licences, permissions and consents required for the installation, carrying on of and use of the Products.
- 10.1 The Customer shall procure that the End User likewise complies with the provisions of this clause 10.
- 11. INTELLECTUAL PROPERTY RIGHTS**
- 11.1 The Customer acknowledges and agrees that all Intellectual Property Rights in the Products (to include all component Products, the Services) are vested in and are the property of the Supplier or its licensor and shall remain the property of the Supplier or its licensor (as appropriate).
- 11.2 The Customer shall promptly give notice in writing to the Supplier if it becomes aware of:
- 11.2.1. any infringement or suspected infringement by a third party of the Intellectual Property Rights relating to the Products; and/or
- 11.2.2. any claim that any Product or part of the Solution infringes the rights of any third party.
- 12. CONFIDENTIALITY AND THE SUPPLIER'S PROPERTY**
- 12.1 Each Party shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and which have been disclosed by one Party (the "Disclosing Party") to the other (the "Receiving Party"), its employees, agents or sub-contractors and any other confidential information concerning the Disclosing Party's business, the Products and the Services which the Receiving Party may obtain as a result of such disclosure. Each Party shall restrict disclosure of such confidential material to the End User and to such of the Receiving Party's employees, agents or sub-contractors as may need to know the same for the purpose of discharging the Receiving Party's obligations to the Disclosing Party under these Conditions, and shall ensure that its employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the parties to these Conditions and as may be required by law, a court of competent jurisdiction or any governmental regulatory authority.
- 12.2 All materials, equipment, drawings, specifications and data supplied by the Disclosing Party under or in accordance with these Conditions shall, at all times, be and remain as between the Disclosing Party and the Receiving Party the exclusive property of the Disclosing Party and shall be held by the Receiving Party in safe custody at its own risk and maintained and kept in good condition until returned to the Disclosing Party, and shall not be disposed of or used other than in accordance with the Disclosing Party's written instructions or authorisation.
- 12.3 The rights and obligations under this clause 12 shall survive termination of the Contract, however arising.
- 13. DEFAULT BY CUSTOMER**  
The Customer shall pay to the Supplier, on demand, all reasonable costs, charges or loss sustained or incurred by the Supplier (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.
- 14. DATA PROTECTION**
- 14.1 Each Party shall comply with all applicable requirements of the Data Protection Legislation.
- 14.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor (as such terms are defined in the Data Protection Legislation).
- 14.3 The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of any personal data (as such term is defined in the Data Protection Legislation) to the Supplier for the duration and purposes of the Contract.
- 15. TERMINATION**
- 15.1 If a Contract is terminated all obligations in connection with the Products and all Services listed in the Written Proposal shall also terminate.
- 15.2 Without prejudice to any other rights or remedies it may have, the Supplier may terminate or suspend a Contract immediately on giving written notice to the Customer if:
- 15.2.1. the Customer commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that Party being notified in writing of the breach; or
- 15.2.2. the Customer fails to pay any sum due under these Conditions or under a Contract on the due date for payment provided, in the case of termination, the Customer has failed to remedy that breach within 14 days of being notified in writing of the breach and of the Supplier's suspension of its obligations under the Contract; or
- 15.2.3. an order is made or a resolution is passed for the winding up of the Customer, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the Customer; or
- 15.2.4. an order is made for the appointment of an administrator to manage the affairs, business and property of the Customer, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Customer, or notice of intention to appoint an administrator is given by the Customer or the directors of the Customer or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- 15.2.5. a receiver is appointed of any of the Customer's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Customer, or if any other person takes possession of or sells the Customer's assets; or

**MODULEK**  
**Standard Terms for the Supply of Products and Services**

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- 15.2.6. the Customer makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- 15.2.7. the Customer ceases, or threatens to cease, to trade; or
- 15.2.8. the Customer takes or suffers any similar or analogous action in any jurisdiction in consequence of debt; or
- 15.2.9. there is a change of control (as defined in section 574 of the Capital Allowances Act 2001) of the Customer.
- 15.3 The Customer may terminate a Contract immediately on giving written notice to the Supplier if the Supplier commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 60 days of the Supplier being notified in writing of the breach
- 15.4 On termination of the Contract for Customer default (in accordance with clause 15.2), the Customer shall immediately pay to the Supplier all of the Supplier's abortive costs, any amounts the Supplier owes to its own suppliers including but limited to the costs of materials or goods properly ordered for the Products for which the Supplier then has paid or is legally bound to pay and any direct loss and/or damage caused to the Supplier by the termination.
- 15.5 On termination of the Contract for any reason:
- 15.5.1. the Customer (as relevant) shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Products and Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- 15.5.2. the Customer (as relevant) shall, within a reasonable time of the Supplier's request, return all Products and equipment owned by the Supplier. If the Customer (as relevant) fails to do so, then the Supplier may enter the Customer's premises and take possession of such Products and equipment. Until such Products and/or equipment has been returned or repossessed, the Customer (as relevant) shall be solely responsible for its safe keeping; and
- 15.5.3. the accrued rights of the parties shall, notwithstanding any specific provision of these Conditions, survive the termination of the Contract.

**16. FORCE MAJEURE**

Neither Party shall have any liability to the other under a Contract if it is prevented from or delayed in performing its obligations under a Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the relevant Party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, pandemic or epidemic or default of suppliers or sub-contractors.

**17. COMMUNICATIONS**

Any notice or communications about a Contract must be in writing and must be personally delivered or sent by expedited delivery service or certified or registered mail, return receipt requested, first-class postage prepaid, or sent by email (provided that the sender confirms the email by sending an original confirmation copy by certified or registered mail or expedited delivery service within 3 business days after transmission) to the recipient Party at its registered office or such changed address as shall be notified by one party to the other for the purposes of this clause. Any notice shall be deemed to have been given at the time of personal delivery, or in the case of email upon transmission provided confirmation is sent as described above, or in the case of expedited delivery service or registered or certified mail 3 business days after the date and time of mailing.

**18. ASSIGNMENT**

- 18.1 The Supplier may assign any benefit under these Conditions or a Contract or any part of it to any person, firm or company.
- 18.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier.

**19. GENERAL**

- 19.1 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 19.2 Failure or delay by the Supplier 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.
- 19.3 Any waiver by the Supplier of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 19.4 The parties to a Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 19.5 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts, provided that for the sole benefit and at the sole discretion of the Supplier, the Supplier may elect to apply the jurisdiction of any foreign court applicable to the Customer.

The Supplier and the Customer are bound by these Conditions on the date of the Order Confirmation or, where there is no Order Confirmation, in accordance with clause 2.5.