

The Buyer's attention is drawn in particular to the provisions of clause 12

1. GENERAL

1.1 In these Conditions the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business.

Buyer: the person or firm who purchases the Goods and/or Services from the Seller.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 16.6

Contract: the contract between the Seller and the Buyer for the sale and purchase of the Goods and/or Services in accordance with these Conditions.

Date of Delivery: the date on which delivery of the Goods takes place pursuant to clause 8.

Force Majeure Event: has the meaning given in clause 15.

Goods: the Goods (or any part of them) set out in the Order.

Order: the Buyer's order for the Goods and/or Services, as set out in the Buyer's purchase order form or the Buyer's written acceptance of the Seller's quotation, as the case may be.

Order Confirmation: the written acceptance of the Order sent by the Seller to the Buyer.

Services: the services set out in the Order or, where applicable, as set out in Schedule 1 to these terms and conditions of business.

Seller: GreenBlue Urban Limited (registered in England and Wales with Company number 7162263) or the trading division, subsidiary, holding company or associate of that company, as is notified to the Buyer in writing.

Specification: any specification for the Goods and/or Services, including any related plans and drawings, that is agreed in writing by the Buyer and the Seller.

Writing: includes electronic mail.

2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law trade custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Buyer to purchase the Goods and/or Services in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Buyer are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Seller issues the Order Confirmation, at which point a binding Contract shall come into existence.

2.4 The Contract constitutes the entire agreement between the parties and supercedes and extinguishes all previous agreements, promises, assurances, warranties, representation and understandings between them, whether written or oral, relating to its subject matter. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract.

2.5 Any samples, drawings, descriptive matter, or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force.

2.6 A quotation for the Goods and/or Services given by the Seller shall not constitute an offer. A quotation shall only be valid for a period of 60 days from its date of issue, after which it shall automatically lapse. Any variation to these Conditions shall have no effect unless expressly agreed in Writing by the Seller.

3. DESCRIPTION

3.1 The description of the Goods shall be set out in the Seller's catalogue.

3.2 Any figures, statements, descriptions, illustrations, photographs, drawings, weights or any other matters contained in the Seller's catalogues, pamphlets, price lists or advertising literature are not guaranteed to be accurate and are intended merely to represent a general picture of the Sellers Goods and Services and shall not form part of the Contract nor be regarded as a warranty representation relating to the Goods and/or Services.

3.3 If the Buyer wishes to order Goods in accordance with a particular grade or Specification this must be clearly stated in the Buyer's Order and any accompanying drawings. In any event, the Seller reserves the right (at any time without notice to the Buyer) to change or modify the Specification of the Goods or any materials used in their manufacture.

4. QUALITY OF GOODS AND THE PROVISION OF SERVICES

Goods

4.1 The Seller warrants that on delivery and for a period of 12 months from the date of delivery (**warranty period**) the Goods shall:

4.1.1 conform in all material respects with their description (as referred to in the Sellers invoice or quotation) and any applicable Specification;

4.1.2 be free from material defects in design, material and workmanship;

4.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

4.1.4 be fit for any purpose held out by the Seller.

4.2 Subject to clause 4.3, if:

4.2.1 the Buyer gives notice in writing to the Seller during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 4.1;

4.2.2 the Seller is given a reasonable opportunity of examining such Goods; and

4.2.3 the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost, the Seller shall, at its option, repair or replace the defective Goods or refund the price of the defective Goods in full.

4.3 The Seller shall not be liable for Goods' failure to comply with the warranty set out in clause 4.1 in any of the following events:

4.3.1 the Buyer makes any further use of such Goods after giving notice in accordance with clause 4.2;

4.3.2 the defect arises because the Buyer failed to follow the Seller's [(or, where applicable, the manufacturer's) oral or written instructions as to the storage, commissioning, installation, use and maintenance of Goods or (if there are none) good trade practice regarding the same;

4.3.3 the defect arises as a result of the Seller following any drawing, design or Specification supplied by the Buyer;

4.3.4 the Buyer alters or repairs such Goods without the written consent of the Seller;

4.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

4.3.6 the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

4.4 Except as provided in this clause 4, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.

4.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

4.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Seller

Services

4.7 The Seller shall provide the Services with reasonable care and skill and to the standard expected of a competent contractor.

4.8 Any dates quoted shall be approximate only. Time shall not be of the essence.

4.9 The Seller reserves the right to subcontract the Services, or any part thereof, at any time and to any third party of its choosing.

4.10 Any Goods provided by the Seller as part of the Services shall be subject to these Terms and Conditions of Business.

5. TITLE AND RISK

5.1 The risk in the Goods shall pass to the Buyer on completion of delivery, in accordance with clause 8.

5.2 Title to the Goods shall not pass to the Buyer until the Seller has received payment in full (in cash or cleared funds) for:

5.2.1 the Goods; and

5.2.2 any other Goods that the Seller has supplied to the Buyer in respect of which payment has become due.

5.3 Until title to the Goods has passed to the Buyer, the Buyer shall:

5.3.1 hold the Goods on a fiduciary basis as the Seller's bailee;

5.3.2 store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property;

5.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

5.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

5.3.5 give the Seller such information relating to the Goods as the Seller may require from time to time;

but the Buyer may resell or use the Goods in the ordinary course of its business subject to clause 5.4.

5.4 Subject to clause 5.5, the Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Seller receives payment for the Goods. However, if the Buyer resells the Goods before that time:

5.4.1 it does so as principal and not as the Sellers agent; and

5.4.2 title to the Goods shall pass from the Seller to the Buyer immediately before the time at which resale by the Buyer occurs.

- 5.5 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in clause 9.2, or the Seller reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Seller may have, the Seller may:
- 5.5.1 by notice in writing, terminate the Buyer's right under clause 5.4 to resell the Goods or use them in the ordinary course of its business; or
- 5.5.2 at any time require the Buyer to deliver up all Goods in its possession and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.
- 6. DESIGNS, BUYER'S PROPERTY AND INTELLECTUAL PROPERTY**
- 6.1 No right of ownership or interest in the Seller's patents, registered designs, trade marks, copyrights or any other intellectual property owned by the Seller shall pass in any way to the Buyer in relation to the Goods and/or Services provided under these Conditions.
- 6.2 Where Goods and/or Services are made or supplied to the Buyer's own Specification, pattern or design, a specification, pattern or design supplied by the Buyer or where standard goods of the Seller are altered in accordance with the Buyer's instructions the Buyer warrants and undertakes full responsibility not only for the suitability and fitness of the Specification, pattern or design but also that such Specification, pattern or design does not infringe any patent, trade mark, registered design, copyright or any other proprietary right of any third party and the Buyer shall indemnify and keep the Seller indemnified in full against any liabilities, cost, loss, damage or expense whatsoever (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest penalties and legal and other professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller or otherwise arising from the performance of the Contract by reason of any actual or alleged infringement of any third party's intellectual property rights. The Buyer acknowledges that the Seller shall be under no liability of any description to the Buyer if the Goods and/or Services prove to be unsuitable for whatever reason for application or use. This clause 6.2 shall survive termination of the Contract.
- 6.3 To the extent that the Seller has agreed in writing to make patterns especially for the Buyer the same shall become the property of the Buyer when paid in full. Any replacements, alteration or repairs to any Buyer's patterns or equipment shall be paid for by the Buyer.
- 6.4 The Seller shall have no responsibility for any loss of or damage to any patterns, equipment or other items of the Buyer's property whilst on the Seller's premises arising from inadequate storage or any unauthorised, injurious act or default by any employee of the Seller or otherwise and the Buyer must arrange its own insurance at all times for such equipment.
- 6.5 The Seller shall have a general lien on all the Buyer's property in the Seller's possession for all sums due at any time from the Buyer and shall be entitled to retain possession of, use, sell or dispose of such property as agent for and at the expense of the Buyer and apply the proceeds in and towards the payment of such sums on 28 days notice in writing to the Buyer. On accounting to the Buyer for any balance remaining after payment of any sums due to the Seller and the costs of sale or disposal, the Seller shall be discharged of any liability whatsoever in respect of the Buyer's property.
- 7. QUOTATIONS AND PRICE**
- 7.1 Subject to clause 7.2 below, the price of the Goods and/or Services shall be the price set out in the Order, or, if no price is quoted, in respect of Goods, the price set out in the Seller's published price list in force as at the date of delivery.
- 7.2 Where a price for the Goods and/or Services is stated in the Order Confirmation, this shall supersede any price set out in the Order.
- 7.3 The Seller may, by giving notice to the Buyer at any time up to 3 Business Days before delivery, increase the price to reflect any increase in the cost of the Goods and/or Services that is due to:
- 7.3.1 any factor beyond the Seller's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- 7.3.2 any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, scope of Services, or the Specification; or
- 7.3.3 any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.
- 7.4 Unless otherwise stated, the price set out in the Seller's quotation shall be exclusive of:
- 7.4.1 any value added tax (VAT), which the Buyer shall additionally be liable to pay to the Seller at the prevailing rate, subject to receipt of a valid VAT invoice; and
- 7.4.2 insurance, packaging, cost of carriage to the contracted place of delivery, cost of off-loading and installation of the Goods (which for the avoidance of doubt shall be at the Buyer's sole risk and expense).
- 7.5 The Seller may invoice the Buyer for the Goods on or at any time after the completion of delivery. [Services shall be invoiced on completion of the work]
- 7.6 All payments must be made in pound sterling.
- 7.7 Unless otherwise agreed in writing, the Buyer shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Seller. Time of payment is of the essence.
- 7.8 If the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment (due date), then without limiting the Seller's other remedies, the Buyer shall pay interest on the overdue amount at the rate of 4% per annum above HSBC Bank plc's base rate from time to time (or 4% for any period when that base rate is below 0%). Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.
- 7.9 The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Seller in order to justify withholding payment of any such amount in whole or in part. The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.
- 7.10 All payment due to the Seller under the Contract shall become payable immediately on termination of the Contract despite any other provisions to the contrary.
- 7.11 Samples submitted to the Buyer will be payable by the Buyer unless returned to the Seller, carriage paid, within 1 month from the date of dispatch. In instances where the Seller is working from a new pattern, an altered pattern, or a pattern fresh to the Seller's foundry, the Seller may submit sample castings for approval before manufacturing the majority of the Order which will only be commenced on receipt of such approval in Writing.
- 8. DELIVERY OF GOODS**
- 8.1 Delivery shall be deemed to be effected by the Seller:
- 8.1.1 where Goods are delivered by the Seller, when the same arrive, prior to unloading, at the Buyer's premises or at such premises nominated by the Buyer or at the nearest accessible road point to such premises;
- 8.1.2 where Goods are delivered by an independent carrier, at the time of loading onto the carrier's vehicle;
- 8.1.3 where Goods are collected by or on behalf of the Buyer by its servants or agents, on completion of loading of the Goods at the Seller's premise (or such other location as may be advised) by the Seller as the collection point).
- 8.2 Where it is agreed that the Buyer shall collect the Goods (either from the Seller's premises or such other location as may be advised by the Seller prior to delivery) such collection shall take place within 3 Business Days of the Seller notifying the Buyer that the Goods are ready.
- 8.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 8.4 If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Seller shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 8.5 If the Buyer fails to take or accept delivery of the Goods within three Business Days of the Seller notifying the Buyer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the Contract:
- 8.5.1 delivery of the Goods shall be deemed to have been completed at 9.00am on the third Business Day after the day on which the Seller notified the Buyer that the Goods were ready; and
- 8.5.2 the Seller shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).
- 8.6 If 10 Business Days after the day on which the Seller notified the Buyer that the Goods were ready for delivery the Buyer has not taken or accepted delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods.
- 8.7 The Buyer shall not be entitled to reject the Goods if the Seller delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Order invoice on receipt of notice from the Buyer that the wrong quantity of Goods was delivered.
- 8.8 The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment. Failure by the Buyer to make payment by the due date for any one instalment for whatever reason shall entitle the Seller to suspend deliveries of the Goods under the Contract (but without prejudice to any other right the Buyer may have under any of the other provision of these Conditions).
- 8.9 Any discrepancy in terms of the quantity of Goods delivered must be notified to the Seller immediately and, in any event, within 48 hours of delivery. The failure to give such notice will constitute acceptance, by the Buyer, that the correct contractual quantity has been delivered.
- 8.10 Any Goods which are delivered damaged must be notified to the Seller immediately and, in any case, within 48 hours of delivery. The failure to give such notice will constitute acceptance, by the Buyer, that the Goods were delivered undamaged.
- 8.11 **Returns.** Save for a breach of warranty in accordance with clause 4, the return of Goods will only be considered at the discretion of the Seller in accordance with its Returns Policy, as may vary from time to time.
- 8.12 A copy of the Returns Policy is available, on request, from the Seller.
- 9. BUYER'S INSOLVENCY OR INCAPACITY & TERMINATION**
- 9.1 If the Buyer becomes subject to any of the events listed in clause 9.2, or the Seller reasonably believes that the Buyer is about to become subject to any of them and notifies the Seller accordingly then, without limiting any other right or remedy available to the Seller, the Seller may cancel or suspend all further deliveries and/or the provision of any Services under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer and/or Services performed shall become immediately due.
- 9.2 For the purposes of clause 9.1, the relevant events are:
- 9.2.1 the Buyer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- 9.2.2 the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Buyer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- 9.2.3 (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer, other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- 9.2.4 (being an individual) the Buyer is the subject of a bankruptcy petition or order;
- 9.2.5 a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 9.2.6 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer;
- 9.2.7 (being a company) a floating charge holder over the Buyer's assets has become entitled to appoint or has appointed an administrative receiver;
- 9.2.8 a person becomes entitled to appoint a receiver over the Buyer's assets or a receiver is appointed over the Buyer's assets;
- 9.2.9 any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2.2 to clause 9.2.8 (inclusive);
- 9.2.10 the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
- 9.2.11 the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfill its obligations under the Contract has been placed in jeopardy; and
- 9.2.12 (being an individual) the Buyer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

- 9.3 The Seller may also terminate this Contract with immediate effect by giving written notice to the Buyer if:
- 9.3.1 the Buyer commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within 14 days of being notified in writing to do so;
- 9.3.2 the Buyer fails to pay any amount due under the Contract on the due date for payment.
- 9.4 On termination of the Contract for any reason, the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of Goods and / or Services supplied but for which no invoice has been submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately on receipt.
- 9.5 Termination or expiry of the Contract, however, arising, shall not effect any of the parties rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 9.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 10. SUSPENSION AND CANCELLATION**
- 10.1 If the Buyer requires cancellation of the Contract this will only be accepted at the sole discretion of the Seller and unless otherwise agreed in Writing only upon condition that any costs, charges or expenses (both direct and consequential) incurred by the Seller up to the date of cancellation and the value of all loss or damage (both direct and consequential) incurred by the Seller by reason of such cancellation will be reimbursed by the Buyer to the Seller forthwith. Acceptance by the Seller of any cancellation by the Buyer will only be binding upon the Seller if it is made in Writing.
- 10.2 The Seller shall suspend the performance of the Contract on receipt of a request in Writing from the Buyer but shall only do so for a period not exceeding 28 days and the Buyer shall reimburse the Seller for all storage charges and other additional costs the Seller incurs thereby and such costs shall be added to and form part of the price for the Goods and/or Services. If such suspension shall continue for a period of more than 28 days then the Seller may terminate the Contract and the rights and liabilities of the parties shall be the same as if the Contract had been cancelled in accordance with the provisions of clause 10.1.
- 11. ADDITIONAL GOODS AND SERVICES**
- 11.1 Where the Buyer requires Goods and/or Services to be provided in addition to those agreed, the Buyer shall place an Order in Writing setting out the additional Goods and/or Services to be provided and upon acceptance in Writing by the Seller of such Order the provision of these Conditions shall apply to those additional Goods and/or Services.
- 12. LIMITATION OF LIABILITY**
- 12.1 The Seller confirms that it has appropriate insurance in place.
- 12.2 The restrictions on liability in the clause 12 apply to every liability under or in connection with the Contract including liability in contract tort (including negligence), misrepresentation, restitution or otherwise.
- 12.3 Nothing in these Conditions shall limit or exclude the Seller's liability for:
- 12.3.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 12.3.2 fraud or fraudulent misrepresentation;
- 12.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- 12.3.4 defective products under the Consumer Protection Act 1987; or
- 12.3.5 any other matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
- 12.4 Subject to clause 12.3:
- 12.4.1 the Seller shall under no circumstances whatever be liable to the Buyer for any loss of profit, loss of sales or business, loss of or damage to goodwill or any indirect or consequential loss arising under or in connection with the Contract; and
- 12.4.2 the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract shall in no circumstances exceed £25,000 or the price of the Goods and/or Services, whichever is lower.
- 12.5 This clause 12 shall survive termination of the Contract.
- 13. GOODS AND MATERIALS MANUFACTURED BY THIRD PARTIES**
- 13.1 Where the Goods which are the subject of the Contract are not manufactured by the Seller and are delivered direct to the Buyer or collected by or on behalf of the Buyer from the manufacturer or other third party, the Seller shall not be liable for any loss or damage to such Goods whatsoever or whensoever occurring.
- 14. HEALTH AND SAFETY AT WORK (ETC) ACT 1974**
- 14.1 The attention of the Buyer is drawn to the provisions of section 6 Health and Safety at Work (Etc.) Act 1974. The Seller will make available upon request information on the design, construction and installation of its products to ensure that, as far as it is reasonably practicable, they are safe and without risk to health. It is the responsibility of the Buyer to take such steps as are necessary to ensure that such information is appropriate and is made available to its servants, agents or any person to whom the Buyer supplies them and to any other person to whom the Buyer reasonably considers any such information should be given.
- 15. FORCE MAJEURE**
- 15.1 Neither party shall be in breach of the Contract nor liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics, pandemics or similar events, natural disasters or extreme adverse weather conditions, or default of Sellers or subcontractors.
- 15.2 The Seller reserve the right to defer the date of delivery or to suspend performance of the Services or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its obligations under the Contract due to a Force Majeure Event.
- 15.3 If the Force Majeure Event in question continues for a continuous period in excess of 60 days, the Buyer shall be entitled to give notice in writing to the Seller to terminate the Contract.
- 16. GENERAL**
- 16.1 Assignment and subcontracting.
- 16.1.1 The Seller may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 16.1.2 The Buyer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Seller.
- 16.2 Notices.
- 16.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or email.
- 16.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 17.2.1; if sent by pre-paid first class post or recorded delivery, at 9.00am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, at 9.00am on the Business Day after transmission.
- 16.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 16.3 Severance.
- 16.3.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 16.3.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 16.4 Waiver. A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 16.5 Third party rights. A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 16.6 Variation. Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Seller.
- 16.7 Governing law and jurisdiction. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with English law. Each party irrevocably agrees, for the sole benefit of the Seller that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Seller to take proceedings against the Buyer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.