

DOCUMENT NUMBER [KBLR01.1]

ISSUE DATE [July 2021]

1 INTERPRETATION

1.1 Definitions

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

Buyer: means the person or firm who purchases the Goods from the Company.

Collection Location: has the meaning given to it in clause 4.3.

Company: means Auto Marine Cables Limited (registered in England and Wales with the company number 00804767) at Unit 32 Devonshire Road, Oakhill Trading Estate, Worsley, Manchester, M28 3PT.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 14.4.

Contract: the contract between the Company and the Buyer for the sale and purchase of the Goods in accordance with these Conditions.

Delivery Location: has the meaning given to it in clause 4.2.

Force Majeure Event: an event, circumstance or cause beyond a party's reasonable control which shall include but is not limited to: Act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; import or export regulations or embargoes; strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party); difficulties in obtaining raw materials, labour, fuel, parts or machinery; or power failure or breakdown in machinery.

Goods: the goods (or any part of them) including any ancillary services such as installation set out in the Order.

Incoterms: means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms, shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the Conditions shall prevail.

Order: the Buyer's order for the Goods, as set out in the Buyer's written acceptance of the Company's quotation or the Company's acknowledgment of the Buyer's order for the Goods submitted online, via email or in any other form, as the case may be.

Premises: shall mean the Company's premises located at Unit 32 Devonshire Road, Oakhill Trading Estate, Worsley, Manchester, M28 3PT, or any alternative premises notified by the Company to the Buyer from time to time.

Specification: any specification for the Goods, including any related plans and drawings, that the Company provides to the Buyer or is as otherwise agreed in writing by the Buyer and the Company.

1.2 Interpretation:

- 1.2.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 A reference to a party includes its personal representatives, successors and permitted assigns.
- 1.2.3 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- 1.2.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.2.5 A reference to **writing** or **written** includes email but not fax.

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 in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when the Company issues a written acceptance of the Order or (if earlier) the Company delivers the Goods or notifies the Buyer that the Goods are ready for collection, at which point the Contract shall come into existence. For the avoidance of doubt, the Company can freely accept or reject any Order placed by the Buyer in its sole discretion.
- 2.4 After the Order has come into existence in accordance with clause 2.3, the Buyer shall not be entitled to amend or cancel the Order unless agreed in writing by the Company and subject to payment by the Buyer of the Company's cancellation charges, which shall be all costs incurred by the Supplier in fulfilling the Order up until the date any such amendment or cancellation is agreed by the Company.
- 2.5 The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer that is inconsistent with these Conditions.
- 2.6 Any samples, drawings, descriptive matter or advertising produced by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.7 A quotation for the Goods given by the Company shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue. If the Buyer purports to accept after that date the Company may proceed or decline at its discretion.

3 GOODS

- 3.1 The Goods are described in the Specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Buyer, the Buyer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Company in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the Specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Company reserves the right to amend the Specification if required by any applicable statutory or regulatory requirement, and the Company shall notify the Buyer in any such event.

4 DELIVERY

4.1 The Company shall ensure that each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 Subject to clause 4.3, the Company shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Company notifies the Buyer that the Goods are ready.

4.3 Where agreed in writing by the Company, the Buyer shall be permitted to collect the Goods from the Company's premises on an Ex-Works (Incoterms 2020) basis at the Premises or such other location as may be advised by the Company prior to delivery (**Collection Location**) within the period (if any) named in the Order (extended in accordance with clause 13.1 if applicable) or within 7 days of notification by the Company that the Goods are ready (**Collection Period**).

4.4 Delivery is completed on the completion of unloading of the Goods at the Delivery Location or loading the Goods at the Collection Location.

4.5 Whilst every effort is made to adhere to delivery dates, any time or date given by the Company is intended as an estimate only and the Company shall not be liable for any damages or losses direct, indirect or consequential upon delay and the Company makes no representation that delivery of the Goods shall be made by a certain date or at all. For the avoidance of doubt, the Company 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 Company with payment in accordance with these Conditions, adequate delivery instructions or any other instructions that are relevant to the supply of the Goods and delays in delivery shall not entitle the Buyer to:

4.5.1 refuse to take delivery of the Order;

4.5.2 claim damages; or

4.5.3 terminate the Contract.

4.6 If the Company fails deliver the Goods or to make the Goods available for collection, 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 Company 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 Company with payment in accordance with these Conditions, adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.7 If the Buyer is unable or fails to take delivery of the Goods within three Business Days of the Company notifying the Buyer that the Goods are ready as set out in clause 4.2 or within the Collection Period, then, except where such failure or delay is caused by a Force Majeure Event

or the Company's failure to comply with its obligations under the Contract in respect of the Goods:

- 4.7.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Company notified the Buyer that the Goods were ready as set out in clause 4.2 or on the final Business Day of the Collection Period; and
- 4.7.2 if the Company's storage facilities permit, store the Goods and take reasonable steps to prevent the Goods deterioration until the Goods are collected by the Buyer, the Buyer shall be liable to the Company for all related costs and expenses in relation to the storage. This provision shall be in addition to and not is substitution for any other payment of damages for which the Buyer may become liable in respect of its failure to take delivery at the appropriate date.
- 4.8 The Company 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.
- 4.9 The Company shall accept no liability for claims for damage in transit, shortage of Goods or loss of Goods unless in the case of damage in transit or shortage of Goods, a separate notice in writing is given to the carrier concerned and to the Company within 2 days of receipt of the Goods by the Buyer, followed by a complete claim in writing within 7 days of receipt of Goods and, in the case of loss of Goods, notice in writing is given to the carrier concerned and to the Company and a complete claim in writing made within 7 days of the date of delivery. Where Goods are accepted from the carrier concerned without being checked, the delivery book of the carrier concerned must be signed "not examined". Any Goods damaged in transport, if accepted, must be signed "damaged".
- 4.10 The Buyer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Company arising out of or in connection with any damage to the Company's Premises and other property if the Buyer is collecting the Goods from the Premises in accordance with these Conditions.

5 WARRANTY

- 5.1 Subject to the conditions set out below, the Company warrants that the Goods will correspond:
 - 5.1.1 with the Specification in all material respects; and
 - 5.1.2 will be free from defects in materials and workmanship for a period of twelve months after delivery.
- 5.2 The Buyer may reject any Goods delivered to it that do not comply with clause 5.1 (whether or not delivery is refused by the Buyer), provided that:
 - 5.2.1 notice of rejection is given to the Company:
 - 5.2.1.1 in the case of a defect that is apparent on normal visual inspection, within seven (7) days from the date of delivery;
 - 5.2.1.2 in the case of a latent defect, within a reasonable time of the latent defect having become apparent; and
 - 5.2.2 none of the events listed in clauses **Error! Reference source not found.** and 5.4 apply.

- 5.3 The Company shall not be liable for a Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:
- 5.3.1 the Buyer makes any further use of those Goods after giving notice in accordance with clause 5.2;
 - 5.3.2 the defect arises as a result of the Company following any drawing, design or Specification supplied by the Buyer;
 - 5.3.3 any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions;
 - 5.3.4 the defect arises because the Buyer failed to follow the Company's oral or written instructions for the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - 5.3.5 misuse or alteration or repair of the Goods without the Company's approval;
 - 5.3.6 the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;
 - 5.3.7 the total price for the Goods has not been paid by the due date for payment; or
 - 5.3.8 for any parts, materials or equipment not manufactured by the Company, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company and can be reasonably transferred to the Buyer.
- 5.4 If the Buyer fails to give notice of rejection in accordance with clause 5.2, it shall be deemed to have accepted these Goods and the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 5.5 Subject to clause 5.3 if:
- 5.5.1 the Buyer rejects the Goods under clause 5.2;
 - 5.5.2 the Company is given reasonable opportunity of examining such Goods; and
 - 5.5.3 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 (if the Goods do not comply with the warranty set out in clause 5.1),
- the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full without any further liability to the Buyer.
- 5.6 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.
- 5.7 These Conditions shall apply to any repaired or replacement Goods supplied by the Company.
- 5.8 Except as provided in this clause 5, the Company shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.9 For the avoidance of doubt and notwithstanding anything to the contrary contained herein, the Buyer shall be responsible for the costs in returning all Goods to the Supplier to the extent the Company does not have any liability to the Buyer under the warranty set out in clause 5.1.

6 RETENTION OF TITLE AND RISK

6.1 The Goods are at the risk of the Buyer from the time of delivery.

6.2 Title to the Goods shall not pass to the Buyer until the earlier of:

6.2.1 the Company receives payment in full (in cash or cleared funds) for the Goods and any other goods or ancillary services that the Company has supplied to the Buyer in respect of which payment has become due (on any account), in which case title to the Goods shall pass at the time of payment of all such sums;

6.2.2 the Buyer resells the Goods, in which case title to the Goods shall pass to the Buyer at the time specified in clause 5.4;

6.3 Until title of the Goods has passed to the Buyer, the Buyer shall:

6.3.1 hold the Goods on a fiduciary basis as the Company's 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 remove, destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.4 maintain the Goods in satisfactory condition and keep them 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 produce the policy of insurance to the Company;

6.3.5 notify the Company immediately if it becomes subject to any of the events listed in clauses 10.1.2 to 10.1.4;

6.3.6 give the Company such information as the Company may reasonably require from time to time relating to:

6.3.6.1 the Goods; and

6.3.6.2 the ongoing financial position of the Buyer.

6.4 Subject to clauses 6.5 and 6.6, the Buyer may resell the Goods or use the Goods in the ordinary course of its business (but not otherwise) before the Company receives payment for the Goods. However, if the Buyer resells the before ownership has passed to it, it does so solely on the following conditions:

6.4.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value;

6.4.2 any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale; and

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

6.5 At any time before title to the Goods passes to the Buyer, the Company:

6.5.1 may by notice in writing, terminate the Buyer's right under Clause 6.4 to resell the Goods or use them in the ordinary course of its business;

- 6.5.2 shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company;
 - 6.5.3 may require the Buyer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product 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 inspect them or recover them.
- 6.6 The Buyer's right to possession of the Goods for which title has not yet passed, shall terminate immediately if:
 - 6.6.1 the Buyer undergoes any of the events outlined in clauses 10.1.2 to 10.1.4 or the Company reasonably believes that the Buyer is about to become subject to any of them;
 - 6.6.2 if the Company terminates the Contract; or
 - 6.6.3 the Buyer encumbers or in any way charges any of the Goods
- 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 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 clause 6 shall remain in effect.

7 PRICE

- 7.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Company's published price list in force as at the date of delivery. For the avoidance of doubt the Company may amend its price list in its sole discretion at any time, though the Company will not vary the price of any Order if it has already been accepted in accordance with these Conditions.
- 7.2 The price of the Goods:
 - 7.2.1 excludes amounts in respect of value added tax (VAT), which the Buyer shall additionally be liable to pay to the Company at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - 7.2.2 excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Buyer. Subject to clause 12.4, the transport of the Goods shall be on an Ex Works (Incoterms 2020) basis from the Company's premises, unless otherwise agreed to in writing by the Company.

8 PAYMENT

- 8.1 The Company may invoice the Buyer for the Goods on or at any time after the completion of delivery.
- 8.2 Unless otherwise agreed by the Company in writing, the Buyer shall pay each invoice submitted by the Company:
 - 8.2.1 as soon as reasonably practicable and without undue delay or in accordance with any credit terms (as outlined in clause 9) agreed and confirmed in writing by the Company, but notwithstanding the foregoing, the Company reserves the right to vary these payment terms from time to time as it in its discretion deems fit whether

generally or as they apply to any one or more Buyers upon giving reasonable notice to the Buyer; and

- 8.2.2 in full and in cleared funds to a bank account nominated in writing by the Company, and

time for payment shall be of the essence of the Contract.

- 8.3 If the Buyer fails to make a payment due to the Company under the Contract by the due date where the Buyer has a credit facility or within seven (7) days of notification by the Company that a payment is due in all other cases, then, without limiting the Company's remedies under clause 10, the Buyer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 8.3 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 8.4 All amounts due under the Contract from the Buyer shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 8.5 Where the Buyer does not have a credit facility (as outlined in clause 9), the Company shall not commence fulfilling any Order until payment for the applicable Order has been paid in accordance with clause 8.2.

9 CREDIT ACCOUNTS

This clause applies if and whenever the Company agrees in writing to allow the Buyer a credit facility.

- 9.1 The Buyer will only be allowed a credit facility if the credit checks and any other checks that the Company deems necessary, that are carried out by the Company in respect of the Buyer are wholly satisfactory to the Company.
- 9.2 The Company will notify the Buyer in writing when the Buyer's account with the Company has been opened and of the credit limit imposed on that account, such limit will be set by the Company in its sole discretion. The Buyer will only be permitted to use the credit facility when its account has opened, and the Company has notified the Buyer of such, and then only to the credit limit imposed on the account.
- 9.3 Unless otherwise agreed by the Company in writing, where the Buyer holds a credit account with the Company the Buyer shall pay each invoice submitted by the Company, no later than 30 days from the date of the Company's invoice for the same.
- 9.4 The Company reserves the right to vary the terms upon which it allows the Buyer a credit facility (including varying the credit limit), or to withdraw a credit facility at any time for any reason. Any variation in such terms will be notified to the Buyer in writing and will take immediate effect.
- 9.5 Where any valid claim under clause 5 is made in respect of Goods provided on credit and the Company decides to refund to the Buyer some or all of the price of the Goods and/or charge for the Services, such refund will be made by credit to the Buyer's account.
- 9.6 Notwithstanding any applicable claim made by the Buyer under clause 5, the Buyer must nevertheless pay the price of the Goods which are the subject of the claim in accordance with clause 9.3 pending the determination of the validity of such claim.
- 9.7 Without prejudice to the provisions of clause 9.5, the Company shall be entitled to withdraw the Buyer's facility with immediate effect if the Buyer breaches any of the provisions of this clause 9.

- 9.8 Where the Buyer's credit facility is withdrawn then without prejudice to any other rights or remedies available to the Company, the full price of all the Goods sold or supplied but not yet paid for shall become immediately due and payable notwithstanding any previous arrangements or agreements to the contrary.

10 TERMINATION

- 10.1 Without limiting its other rights or remedies, the Company may terminate this Contract with immediate effect by giving written notice to the Buyer if:

10.1.1 the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within seven (7) days of that party being notified in writing to do so;

10.1.2 the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

10.1.3 the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

10.1.4 the Buyer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

- 10.2 Without limiting its other rights or remedies, the Company may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Company, without any liability to the Buyer, if the Buyer becomes subject to any of the events listed in clause 10.1.2 to 10.1.4, or the Company reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.

- 10.3 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.

- 10.4 On termination of the Contract for any reason the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Buyer immediately on receipt.

- 10.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

- 10.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

11 LIABILITY

- 11.1 The restrictions on liability in this Clause 8 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

- 11.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- 11.2.1 death or personal injury caused by negligence;
 - 11.2.2 fraud or fraudulent misrepresentation;
 - 11.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - 11.2.4 defective products under the Consumer Protection Act 1987.
- 11.3 Subject to clause 11.2, the Company's total liability to the Buyer shall not exceed 100% of the total price paid by the Buyer, in respect to the Good(s) giving rise to such liability, in the 12 months preceding the date of the applicable claim.
- 11.4 Subject to clause 11.2, the following types of loss are wholly excluded: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to goodwill; and indirect or consequential loss.
- 11.5 This clause 11 shall survive termination of the Contract.
- 12 EXPORT TERMS**
- 12.1 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 12 shall (subject to anything to the contrary agreed in writing between the Buyer and the Company) apply notwithstanding any other provisions of these Conditions.
- 12.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination of the Order.
- 12.3 The Buyer is responsible for obtaining, at its own cost, such import and export licences (as applicable) and other consents in relation to the Goods as are required from time to time and, if required by the Company, the Buyer shall make those licences and consents available to the Company prior to the relevant shipment.
- 12.4 Unless otherwise agreed in writing between the Buyer and the Company, where the Goods are to be supplied from export from the United Kingdom, the Goods shall either be delivered F.O.B. (Incoterms 2020) to the air or sea port of shipment (as applicable) at the Company's discretion, and the Company shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979 or D.D.P (Incoterms 2020) to the location agreed by the Company in the Order. For the purposes of this clause, delivery is completed on the completion of loading of the Goods at the air or sea port of shipment or completion of loading of the Goods at the location agreed by the Company in the Order (as applicable).
- 13 FORCE MAJUERE**
- 13.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from a Force Majeure Event. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for eight (8) weeks the party not affected may terminate the Contract by giving four (4) weeks' written notice to the affected party.
- 13.2 Where a Force Majeure Event affects the Company, in the Company's reasonable opinion, the Company shall be entitled to wholly or partially suspend delivery of Orders at its sole discretion, and the time for performance of these deliveries shall be extended by the a period equivalent to the period during which performance of these deliveries has been delayed or not performed.

- 13.3 For the avoidance of doubt, the Company shall not be responsible for any delay or restriction (including local, national or international government advice, measure or prohibition) caused by or contributed to by the Covid-19 pandemic, that prevents the Company from fulfilling an Order, and the Buyer shall not be entitled to rely on such events to terminate the Contract in accordance with clause 13.1.

14 GENERAL

14.1 Assignment and other dealings.

14.1.1 The Company 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.

14.1.2 The Buyer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Company.

14.2 Confidentiality

14.2.1 Each party undertakes that it shall not at any time during the Contract and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2.2.

14.2.2 Each party may disclose the other party's confidential information:

14.2.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14.2.2.1; and

14.2.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

14.2.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

14.2.4 For the avoidance of doubt, each party shall not disclose or otherwise discuss to any person or other third party, any applicable terms or agreements that the other party has in place with selling or reselling (as applicable) to other third parties.

14.3 Entire Agreement

14.3.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

14.3.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

14.4 Variation

- 14.4.1 No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

14.5 Waiver

- 14.5.1 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

14.6 Severance

- 14.6.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 14.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

14.7 Notices

- 14.7.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 14.7.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - 14.7.1.2 sent by email to the address specified in the Order.
- 14.7.2 Any notice shall be deemed to have been received:
- 14.7.2.1 if delivered by hand, at the time the notice is left at the proper address;
 - 14.7.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - 14.7.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 14.7.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 14.7.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14.8 Third Party Rights

- 14.8.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

14.9 Governing Law

- 14.9.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

14.10 Jurisdiction

- 14.10.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.