

The Customer's attention is particularly drawn to the provisions of clause 13 (Limitation of liability).

## 1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

### 1.1 Definitions:

<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
<b>Business Hours</b>	the period from 9.00 am to 5.00 pm on any Business Day.
<b>Change</b>	an amendment to: <ul style="list-style-type: none"><li>• the scope, nature, volume, specification or execution of the Goods and/or Services under a Contract; or</li><li>• any other term of a Contract.</li></ul>
<b>Change Control Note</b>	a proposal outlining the scope and specification of any altered or additional Goods and/or Services in response to a Change and the price.
<b>Commencement Date</b>	has the meaning given in clause 2.2.
<b>Conditions</b>	these terms and conditions as amended from time to time in accordance with clause 17.8.
<b>Contract</b>	the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.
<b>Customer</b>	the person or firm who purchases the Goods and/or Services from the Supplier.
<b>Data Protection Legislation</b>	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
<b>Delivery Location</b>	has the meaning given in clause 3.3.
<b>Force Majeure Event</b>	has the meaning given to it in clause 16.
<b>Goods</b>	the goods (or any part of them) set out in the Order.
<b>Goods Specification</b>	any specification that may be given by the manufacturer for the Goods.
<b>Intellectual Property Rights</b>	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or

extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

<b>Order</b>	the Customer's order for the supply of Goods and/or Services, as set out in the Customer's written acceptance of the Supplier's quotation, or overleaf, as the case may be.
<b>Services</b>	the design, installation and other services, supplied by the Supplier to the Customer as set out in the Order.
<b>Service Specification</b>	any specification and description for the Services provided in writing by the Supplier based upon the information supplied by the Customer and agreed by the Customer.
<b>Supplier</b>	B-ENGINEERING (NW) LTD registered in England and Wales with company number 04506167 and registered office is at 207 Knutsford Road Grappenhall, Warrington, Cheshire, United Kingdom WA4 2QL.
<b>Supplier Materials</b>	has the meaning given in clause 7.1.10.
<b>UK GDPR</b>	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

Interpretation:

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

A reference to a party includes its successors and permitted assigns.

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.

Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

## 2. Basis of Contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained on the Supplier's website or in its catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract nor have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue.

- 2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
3. **Goods**
- 3.1 The Goods are described in the Order and any Goods Specification given for them.
- 3.2 The Supplier reserves the right to make changes to the actual Goods specified in the Order to the extent that such change improves their functionality, are immaterial in nature or if those changes are required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.
- 3.3 The Supplier 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 Supplier notifies the Customer that the Goods are ready.
- 3.4 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 3.5 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by:
- 3.5.1 any act or omission of a third party including, without limitation, a manufacturer or courier delivery the Goods are parts for the Goods to the Supplier;
- 3.5.2 a Force Majeure Event; or
- 3.5.3 the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.6 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 3.7 If the Customer fails to accept delivery of the Goods at the Delivery Location then except where such failure or delay is caused by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- 3.7.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the Business Day following the day on which the Supplier notified the Customer that the Goods were being delivered to the Delivery Location; and
- 3.7.2 the Supplier shall store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 3.8 If 10 Business Days after the day on which the Supplier attempted delivery at the Delivery Location the Customer has not accepted actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall below the price of the Goods.
- 3.9 If the Supplier delivers up to and including 10% more or less than the quantity of Goods ordered the Customer may not reject them.
- 3.10 The Supplier 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 Customer to cancel any other instalment.

#### 4. **Quality of Goods**

4.1 The Supplier warrants that on delivery, the Goods shall:

4.1.1 conform with the details set out in the Order; and

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

4.2 The Supplier shall use its reasonable endeavours to pass on any manufacturer's warranties in respect of the Goods provided that:

4.2.1 it shall be the Customer's responsibility, to extent required by the manufacturer, to register the warranty with the manufacturer once installed; and

4.2.2 the Customer acknowledges and agrees that where the Goods are faulty and the customer seeks to rely upon the manufacturer's warranty:

4.2.2.1 the Supplier shall have no responsibility for or liability in relation to any costs associated with any repair or replacement of the faulty Goods; and

4.2.2.2 if the Customer would like the Supplier to assist with such repair or replacement, the Supplier will do so on the terms of this agreeing subject to agreeing an appropriate price pursuant to clause 9.

4.3 Subject to clause 4.4, if:

4.3.1 the Customer gives notice in writing to the Supplier 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;

4.3.2 the Supplier is given a reasonable opportunity of examining such Goods; and

4.3.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

4.4 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 4.1 if:

4.4.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 4.2;

4.4.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;

4.4.3 the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;

4.4.4 the Customer alters or repairs such Goods without the written consent of the Supplier;

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

4.4.6 the Goods differ from the Goods specified in the Order for the reasons referred to in clause 3.2, a change in law and/or regulation increases the cost and/or additional works or equipment are required that the Supplier was not made aware of before the Goods and/or Services were ordered.

- 4.5 Except as provided in this clause 4, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.
- 4.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
5. **Title and Risk**
- 5.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 5.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods.
- 5.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 5.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
  - 5.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 5.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
  - 5.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.1.3 to clause 14.1.5; and
  - 5.3.5 give the Supplier such information as the Supplier may reasonably require from time to time relating to:
    - 5.3.5.1 the Goods; and
    - 5.3.5.2 the ongoing financial position of the Customer.
- 5.4 At any time before title to the Goods passes to the Customer, the Supplier may require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
6. **Supply of Services**
- 6.1 Provided that the information provided by the Customer in relation to the scope and specification of the Services is accurate; the Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects. If the information provided by the Customer is inaccurate the parties shall amend the Service Specification in accordance with clause 9.
- 6.2 The Supplier shall use its reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 6.3 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 6.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 6.5 Where the Services include installation of any Goods:

6.5.1 the Supplier shall no obligation to commence or continue to provide the Services and shall have no liability to the Customer or any third party for its failure to do so, in the event that information or issues come to light that will make the installation more dangerous or more expensive than originally envisaged including, without limitation, severe weather events and/or health and safety concerns such as the presence of asbestos or other hazardous materials;

6.5.2 the Customer shall at its sole expense:

6.5.2.1 carry out all works and provide all requisite materials, facilities, access and suitable working conditions to enable installation to be carried out safely and expeditiously including the materials, facilities, access and working conditions specified in the Order; and

6.5.2.2 ensure that the area where the Goods are to be installed has good access and is safe and free from dangers and hazards including, without limitation, asbestos and other noxious substances.

The Customer shall indemnify and hold the Supplier harmless from any claims, damages, liabilities, costs and expenses it may incur resulting from any failure by the Customer to comply with its obligations under this clause 6.5.

6.5.3 the Supplier shall carry out acceptance tests to ensure that the Goods are in good working order and have been installed in accordance with the Services Specification. The acceptance tests shall be started as soon as reasonably possible after installation and shall be run during Business Hours.

6.6 If any Goods fails to pass the acceptance tests referred to in clause 6.5, the Supplier shall remedy the defects and/or deficiencies.

6.7 The Goods shall be deemed to be accepted on the earlier of: the acceptance tests being completed and no defect and/or deficiencies are found; or, the Customer's use the Goods.

## 7. **Customer's Obligations**

7.1 The Customer shall:

7.1.1 ensure that the terms of the Order and any information it provides to the Supplier in relation to the Contract, the Goods set out in the Order, the Services, the Services Specification or otherwise are complete and accurate;

7.1.2 co-operate with the Supplier in all matters relating to the Services;

7.1.3 provide all necessary access to, and facilities and assistance at the site where the Services will be performed;

7.1.4 make the Supplier aware of any potentially dangerous or hazardous conditions, circumstances or materials at the site the Services are going to be performed;

7.1.5 provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;

7.1.6 provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information and material are complete and accurate in all material respects;

- 7.1.7 prepare the Customer's premises for the supply of the Services and carry out all other preparations that may be specified in the Order for the supply of the Goods and Services;
  - 7.1.8 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
  - 7.1.9 comply with all applicable laws, including health and safety laws;
  - 7.1.10 remove and dispose of any waste resulting from or generated by the Goods and/or Services including any asbestos or other hazardous waste that may be discovered in the provision of the Services;
  - 7.1.11 keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and
  - 7.1.12 comply with any additional obligations as set out in the Service Specification and any Goods Specification.
- 7.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation including, without limitation, those specified in clause 7.1 (**Customer Default**):
- 7.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - 7.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from:
    - 7.2.2.1 the Supplier's failure or delay to perform any of its obligations as set out in this clause 7.2; or
    - 7.2.2.2 the Customer's failure to comply with any advice given by the Supplier in relation to the use and or installation of the Goods or otherwise in connection with the Services; and
  - 7.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default including, without limitation, any that are due to:
    - 7.2.3.1 the Services being delayed or prolonged;
    - 7.2.3.2 the presence of dangerous or hazardous materials and any delays resulting therefrom;
    - 7.2.3.3 changes to the scope and/or specification as a result of incorrect or incomplete information provided by the Customer; or
    - 7.2.3.4 changes required due to the Customer's failure to comply with any advice provided by the Supplier.
8. **Charges and Payment**
- 8.1 The price for Goods and Services shall be the price set out in the Order and shall be subject to any additional costs, contingencies and assumptions set out in the Order.

- 8.2 The Supplier shall invoice the Customer and set out the sum it considers due and the basis on which that sum is calculated, unless expressly agreed otherwise in the Order, and the sums stated shall become due and payable on the following dates:
- 8.2.1 30% on the Commencement Date;
  - 8.2.2 50% on delivery of the Goods to the Delivery Location; and
  - 8.2.3 20% once the Goods have been successfully commissioned in accordance with clause 6.7.
- 8.3 The Customer shall pay each invoice submitted by the Supplier:
- 8.3.1 on the specified in clause 8.2 or, if sooner, within 30 days end of month; and
  - 8.3.2 in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
- 8.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 8.5 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 14, the Customer 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 8.5 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%.
- 8.6 All amounts due under the Contract 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).
- 8.7 To the extent that the Housing Grants Construction and Regeneration Act 1996 (as amended) applies to the Contract, the due date for payment of an invoice submitted in accordance with clause 8.2 shall be the date of such invoice (providing always that the Supplier has set out the sum it considers due and the basis on which that sum is calculated) and the final date for payment of an invoice shall be 30 days from its date.
9. **Change Control**
- 9.1 Either party may submit a written request for Change to the other party in accordance with this clause 9, but no Change will come into effect until both parties have agreed to the Change in writing.
- 9.2 If the Customer requests a Change:
- 9.2.1 the Customer will submit a written request to the Supplier containing as much information as is necessary to enable the Supplier to assess the works and equipment that may be necessary; and
  - 9.2.2 within 14 Business Days of receipt of a request, unless otherwise agreed in writing by the parties, the Supplier will send to the Customer a Change Control Note.
- 9.3 If the Supplier requests a Change, it will send to the Customer a Change Control Note.
- 9.4 If, following the Customer's receipt of a Change Control Note pursuant to clause 9.2 or clause 9.3:



9.4.1 the parties agree the terms of the relevant Change Control Note, they will sign it and that Change Control Note will amend the Contract;

9.4.2 either party does not agree to any term of the Change Control Note, then:

9.4.2.1 where the Customer requested the Change, the Contract will be performed as original specified;

9.4.2.2 where the Supplier requested the Change, where in the Supplier's opinion:

(a) the Contract can be delivered as originally specified, it will do so; or

(b) the Contract cannot be delivered as originally specified, the Supplier may terminate the Contract and the provisions of clause 7.2 shall apply.

## 10. Intellectual Property Rights

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.

10.2 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

## 11. Data Protection

11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.

## 12. Confidentiality

12.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.

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

12.2.1 to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

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

12.3 No party shall use any 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.

12.4 No party shall make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of this agreement, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other party, except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

13. **Limitation of Liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 13.1 The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 13.2 The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 13.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 13.3.1 death or personal injury caused by negligence;
  - 13.3.2 fraud or fraudulent misrepresentation;
  - 13.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
  - 13.3.4 defective products under the Consumer Protection Act 1987.
- 13.4 Subject to clause 13.3, the Supplier's total liability to the Customer in respect of all breaches of duty occurring within any contract year shall not exceed the cap.
- 13.5 In clause 13.4:
- 13.5.1 The cap is 50% of the total charges in the contract year in which the breaches occurred;
- 13.6 The following types of loss are wholly excluded:
- 13.6.1.1 loss of profits;
  - 13.6.1.2 loss of sales or business;
  - 13.6.1.3 loss of agreements or contracts;
  - 13.6.1.4 loss of anticipated savings;
  - 13.6.1.5 loss of use or corruption of software, data or information;
  - 13.6.1.6 loss of or damage to goodwill; and
  - 13.6.1.7 indirect or consequential loss.
- 13.7 The Supplier has given commitments as to compliance of the Goods and Services with relevant specifications in clause 4 and clause 6. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.8 This clause 13 shall survive termination of the Contract.
14. **Termination**
- 14.1 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 14.1.1 the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

- 14.1.2 the Customer commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;
- 14.1.3 the Customer 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;
- 14.1.4 the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 14.1.5 the Customer'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.
- 14.2 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.1.3 to clause 14.1.5, or the Supplier reasonably believes that the Customer is about to become subject to any of them.
- 15. Consequences of Termination**
- 15.1 On termination of the Contract:
- 15.1.1 the Customer shall immediately pay to the Supplier:
- 15.1.1.1 all of the Supplier's outstanding unpaid invoices and interest;
- 15.1.1.2 in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt, for the avoidance of doubt, this may include an invoice for any and all costs and expenses incurred by the Supplier in preparation to deliver the Goods and/or Services in the event that such costs and expenses exceed the amount of any deposit amount paid on the Commencement Date; and
- 15.1.1.3 any costs and expenses (on a full indemnity basis) that the Supplier may incur in recovering and enforcing its rights pursuant to a Contract.
- 15.1.2 the Customer shall return all of the Supplier Materials and Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 15.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of 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.
- 15.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

**16. Force Majeure**

The Supplier shall not be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly.

**17. General****17.1 Assignment and other dealings**

17.1.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

17.1.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

**17.2 Notices.**

17.2.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

17.2.1.1 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

17.2.1.2 sent by email to the following addresses (or an address substituted in writing by the party to be served):

Supplier: 207 Knutsford road, Grappenhall, Warrington, WA4 2QL

Customer: Unit 2-3 Bentfield Industrial Units Stockfield Road, Oldham OL9 9LL

17.2.2 Any notice shall be deemed to have been received:

17.2.2.1 if delivered by hand, at the time the notice is left at the proper address;

17.2.2.2 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

17.2.2.3 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.

17.2.3 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.

**17.3 Severance.** 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 or part provision of the Contract is deemed deleted under this clause 17.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

**17.4 Waiver.**

17.4.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

17.4.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

- 17.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 17.6 **Entire agreement.**
- 17.6.1 The Contract constitutes the entire agreement between the parties.
- 17.6.2 Each party acknowledges that in entering into the Contract it does not rely on 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.
- 17.7 **Third party rights.** 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.
- 17.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 17.9 **Governing law.** 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 laws of England.
- 17.10 **Jurisdiction.** 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.