

The Customer's attention is particularly drawn to the provisions of clause 16.

1. INTERPRETATION

- 1.1 In these Standard Terms & Conditions of Business ("Conditions"), the following definitions apply:
- Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
- Contract:** the contract between the Supplier and the Customer for the supply of Goods and/or Services incorporating these Conditions, the Specification and any quotation issued by the Supplier.
- Customer:** the person, company or firm who purchases Goods and/or Services from the Supplier.
- Goods:** the goods (or any part of them) to be supplied by the Supplier to the Customer as set out in the Specification.
- Services:** the services (or any part of them) to be supplied by the Supplier to the Customer as set out in the Specification.
- Specification:** the description or specification of the Goods and/or the Services provided in writing by the Supplier to the Customer.
- Supplier:** Creatif Architectural Products Limited, whose registered office is Unit 2 Hunslet Business Park, National Road, Leeds LS10 1TE.
- Supplier Materials:** has the meaning set out in clause 6.1(g).

- 1.2 In these Conditions, the following rules of interpretation apply:
- 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 a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; and
 - any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.3 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2. BASIS OF CONTRACT

- 2.1 Any order placed by the Customer constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Contract shall come into existence upon whichever is the earlier of written acceptance of an order by the Supplier or commencement by the Supplier of the provision of the Goods and/or Services.
- 2.3 The Contract constitutes the entire agreement between the parties in relation to its subject matter and supersedes all previous agreements (whether written or oral) between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force. Unit quantities specified by the Supplier are given as a guide only and may be varied to suit manufacturing processes and tolerances and/or actual site dimensions and requirements.
- 2.5 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 trade, custom, practice or course of dealing, except that where the Customer places an order under a JCT, NEC3 or other standard form of contract, the terms of such contract shall only apply to the extent that the Supplier has expressly agreed in writing to such terms and to the extent that such terms do not conflict with these Conditions. If there is a conflict between the terms of the standard form of contract and these Conditions, these Conditions shall prevail.
- 2.6 Any quotation given by the Supplier shall not constitute an offer, is only valid for a period of 30 Business Days from its date of issue, and is subject to availability.
- 2.7 Unit prices quoted by the Supplier are estimations calculated on the basis of quantities quoted for. The Supplier expressly reserves the right to increase unit rates and quantities as the Supplier considers appropriate and subject to availability and measurements.



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3. SUPPLY OF GOODS

- 3.1 The Supplier shall supply the Goods to the Customer in accordance with the Specification in all material respects.
- 3.2 To the extent that Goods are manufactured in accordance with any information or specifications supplied by the Customer, the Customer shall indemnify the Supplier 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 Supplier in connection with any claim relating to such information or specifications made against the Supplier by any third party, including but not limited to any defect/issue caused by the information or specifications, or any actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the information or specifications.

4. PERFORMANCE OF SERVICES

- 4.1 The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 4.2 Insofar as the Services involve any design work the Supplier warrants that there will be exercised in such design the reasonable skill and care to be expected of a duly qualified professional designer of the relevant discipline.
- 4.3 The Supplier shall in carrying out the Services comply with all current legislation relating to health and safety including, where applicable, the Construction (Design and Management) Regulations 2015.
- 4.4 In the event of the cessation or postponement of the Services due to unforeseen health and safety issues that represent a potential hazard and risk on site and which affect continuity to the Services, the Supplier does not accept any liability for consequent delays. Any costs resulting from the appointment of professional consultants necessary to investigate in such circumstances and remedial works thereafter shall be directly paid by the Customer.

5. WARRANTY

- 5.1 The Supplier warrants that the Goods shall conform with the Specification and be free from material defects in design, material and workmanship and that the Services will be provided using reasonable care and skill.
- 5.2 Subject to clause 5.3, if:
- the Customer gives notice in writing to the Supplier within 12 months of delivery of the Goods or completion of the Services that some or all of the Goods or Services do not comply with the warranty set out in clause 5.1; and
 - the Supplier is given a reasonable opportunity of examining such Goods or Services; then the Supplier shall, at its option, repair or replace the defective Goods, re-perform the defective Services or refund the price of the defective Goods or Services in full.
- 5.3 The Supplier shall not be liable for Goods' or Services' failure to comply with the warranty set out in clause 5.1 in any of the following events:

- the Customer makes any further use of such Goods or Services after giving notice in accordance with clause 5.2;
- the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or Services or (if there are none) good trade practice regarding the same;
- the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
- the Customer alters or repairs such Goods or Services without the written consent of the Supplier;
- the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
- the Goods or Services differ from the Specification as a result of changes made to ensure that they comply with applicable statutory or regulatory requirements;
- the defect arises from the Customer's failure to comply with any statutory or regulatory requirements including but not limited to those relating to DDA, health and safety and fire;
- the Customer demands that the Goods or Services are supplied outside of the original lead times (i.e. before the date previously agreed by the Supplier).

5.4 These Conditions shall apply to any repaired or replacement Goods supplied or Services re-performed by the Supplier.

5.5 The Supplier's liability in respect of any Goods (including materials) not manufactured by the Supplier shall be limited to the benefit of any manufacturers' warranty or guarantee (which may be made available to the Customer on request) or other rights which are available to the Supplier against the manufacturer or its own supplier of such Goods or materials.

6. CUSTOMER'S OBLIGATIONS

- 6.1 The Customer shall:
- ensure that the terms of any order and any information it provides to form part of the Specification (including but not limited to dimensions, materials, health and safety data and finishes) are complete and accurate;
 - co-operate with the Supplier in a timely manner in all matters relating to the Services;
 - provide the Supplier, its employees, agents, consultants and subcontractors, with access to premises during the Supplier's normal working hours, office accommodation and other facilities as reasonably required by the Supplier to carry out the Services;
 - provide the Supplier with such information and materials as the Supplier may reasonably require in a timely manner in order to supply the Services, and ensure that such information is accurate in all material respects;
 - prepare the premises in anticipation of the supply of the Services;
 - obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to commence or notify the Supplier of any relevant permissions required within a reasonable time prior to commencement of the Services;



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- (g) keep and maintain all materials, equipment, documents and other property of the Supplier (Supplier Materials) at the relevant premises in safe custody at its own risk, maintain the Supplier Materials in good condition, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
- (h) follow all of the Supplier's instructions relating to the Goods and Services, and shall indemnify the Supplier 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 Supplier in connection with any breach of this clause 6.1.
- 6.2 The Customer shall procure that the Supplier has unimpeded access to the site at all times for the delivery of Goods and for the carrying out of Services.
- 6.3 The Customer shall procure that adequate lighting, power for all electrical hand tools and fresh water supplies shall be made available at all times during the Contract.
- 6.4 The Customer is responsible for providing a clear working area prior to the commencement of Services.

7. DELIVERY

- 7.1 The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note.
- 7.2 The Supplier shall deliver the Goods to the location set out in the Customer's 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.
- 7.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 7.4 If the Customer fails to accept delivery of the Goods within one Business Day of the Supplier notifying the Customer that the Goods are ready then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the first Business Day after the Supplier notifies the Customer that the Goods are ready for delivery; and
- (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 7.5 If Customer has not accepted delivery 10 Business Days after the Supplier notifies the Customer that the Goods are ready, the Supplier may at its option resell or otherwise dispose of part or all of the Goods and/or demand immediate payment in respect of such Goods.
- 7.6 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.

8. TIME FOR DELIVERY AND PERFORMANCE

- 8.1 The Supplier shall use reasonable endeavours to meet any quoted dates for delivery or performance, but any such dates shall be estimates only and time shall not be of the essence for delivery of the Goods or performance of the Services.
- 8.2 The Supplier shall not be liable for any delay in delivery of the Goods and/or performance of the Services that is caused by:
- (a) a Force Majeure Event;
- (b) 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;
- (c) delayed notification of any relevant permissions required under clause 6.1(f);
- (d) any variation to the Goods and/or Services;
- (e) adverse weather conditions;
- (f) any default, breach or impediment on the part of the Customer or anyone for whom it is responsible; or
- (g) any other matter beyond the Supplier's reasonable control.
- 8.3 The Supplier shall be entitled to a reasonable extension of time for delivery of the Goods and/or performance of the Services in the event of any of the events in clauses 8.2(a) to 8.2(g) occurring.

9. VARIATIONS TO GOODS AND/OR SERVICES

- 9.1 The Supplier shall have the right to make any changes to the Goods and/or Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Goods and/or Services, and the Supplier shall notify the Customer in any such event.
- 9.2 In the event that additional works or variations are, in the opinion of the Supplier, necessary for the satisfactory completion of the Services, the Customer authorises the Supplier to proceed with such works or variations without further notice and agrees that such work shall be charged at the Supplier's then current day work rates plus overtime, materials, travelling time, subsistence and plant hire cost as applicable.
- 9.3 The Supplier shall not be obliged to carry out any variation to the Goods and/or the Services requested by the Supplier unless the variation is agreed in writing, signed by both parties, and the value of the variation is agreed between the parties based on the Supplier's then current day work rates plus overtime, materials, travelling time, subsistence and plant hire cost as applicable.
- 9.4 The value of all variations shall be paid by the Customer in accordance with clause 12.



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10. DELAY AND CUSTOMER DEFAULT

10.1 If:

- (a) the delivery of the Goods and/or the progress of the Services is or is likely to be affected; or
- (b) it is not reasonably possible for the Supplier to deliver all Goods at one time and/or to carry out the Services in one continuous operation, due to any of the events listed in clause 10.2, the Customer shall reimburse the Supplier on demand for all losses and expenses incurred by the Supplier arising directly or indirectly as a result, including but not limited to all storage, insurance, cancellation, labour, materials, transport and any other costs.

10.2 The events referred to in clause 10.1 are:

- (a) a clear working area not being provided;
- (b) employees or other contractors working in the area;
- (c) the required facilities not being available;
- (d) enabling works not having been completed to the Supplier's satisfaction;
- (e) structural/material limitations,
- (f) a Force Majeure Event;
- (g) delayed notification of any relevant permissions required under clause 6.1(f);
- (h) adverse weather conditions;
- (i) any default, breach or impediment on the part of the Customer or anyone for whom it is responsible;
- (j) any other matter beyond the Supplier's reasonable control.

10.3 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, or if the Customer fails to meet any payment obligation or any other obligation under these Conditions, **(Customer Default)**:

- (a) the Supplier shall without limiting its other rights or remedies have the right to withhold delivery of all Goods (and any other goods) to the Customer, and suspend performance of the Services (including any other services being provided to the Customer) 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 to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations under the Contract; and
- (c) the Customer shall reimburse the Supplier on demand for all losses incurred by the Supplier arising directly or indirectly from the Customer Default including but not limited to all storage, insurance, cancellation, labour, materials, transport and any other costs.

11. TITLE AND RISK

11.1 The risk in the Goods shall pass to the Customer on completion of delivery.

11.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:

- (a) the Goods; and
- (b) any other goods or services that the Supplier has supplied to the Customer in respect of which payment has become due.

11.3 Until title to the Goods and materials has passed to the Customer, the Customer shall:

- (a) hold them on a fiduciary basis as the Supplier's bailee;
- (b) store them separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to them;
- (d) maintain them in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (e) notify the Supplier immediately if it becomes subject to any of the events listed in clause 17.1; and
- (f) give the Supplier such information relating to them as the Supplier may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business.

11.4 If before title to the Goods and materials passes to the Customer the Customer becomes subject to any of the events listed in clause 17.1, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that they have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver them up and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where they are stored in order to recover them.

12. PRICE, CHARGES AND PAYMENT

12.1 The price of the Goods and Services shall be as set out in the Specification or otherwise communicated by the Supplier in writing.

12.2 The Supplier may, by giving reasonable notice to the Customer at any time, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

12.3 The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

12.4 The price of the Goods is exclusive of all taxes, import duties, district surveyor fees, local authority fees or other charges levied by any government or other authority.

12.5 The charges for the Services shall be on a time and materials basis:

- (a) the charges shall be calculated in accordance with the Supplier's standard daily fee rates, as set out in the Specification or otherwise in writing from time to time;



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- (b) the Supplier's standard daily fee rates for each individual are calculated on the basis of an eight hour day from 8.00 am to 5.00 pm;
- (c) the Supplier shall be entitled to charge such overtime rates as communicated from time to time for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 12.5 (b); and
- (d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any plant hire and/or materials.
- 12.6 The Supplier shall invoice the Customer in respect of the Goods and/or Services at such times as it in its discretion decides. Each invoice shall specify the sum the Supplier considers to be due at the due date for payment and the basis on which that sum is calculated. The due date for payment shall be the date the Supplier submits its invoice to the Customer.
- 12.7 The final date for payment shall be 30 days after the due date for payment. Subject to clause 12.8, the Customer shall make payment of the invoiced amount on or before the final date for payment 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.
- 12.8 If the Customer intends to pay less than the sum set out in an invoice, the Customer shall notify the Supplier not later than 7 days before the final date for payment specifying the sum the Customer considers to be due at the date the notice is given and the basis on which that sum is calculated.
- 12.9 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where VAT is payable for Goods or 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 Goods and Services at the same time as payment is due for such Goods and Services.
- 12.10 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the final date for payment, the Supplier shall have the right to charge interest on the overdue amount at the rate of eight per cent (8%) per annum above the then current Bank of England base rate accruing on a daily basis from the final date for payment until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 12.11 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may,

without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

13. INTELLECTUAL PROPERTY RIGHTS

- 13.1 Copyright and all other intellectual property rights in or arising out of or in connection with the Goods and Services (including but not limited to any materials, Supplier Materials, specifications or particulars including plans, drawings, schedules, costings or other data submitted to the Customer) shall be owned by the Supplier. No such material shall be reproduced or disclosed to any third party without the express permission of the Supplier and shall be returned to the Supplier on demand. In particular, unless it has paid for the plans or drawings prepared by the Supplier, the Customer shall not be entitled to submit them to other contractors for any purpose.
- 13.2 In consideration of the sums paid under the Contract, the Supplier grants a non exclusive license to the Customer to use such images of the Goods as agreed in writing from time to time strictly for such purposes agreed in writing from time to time. The Customer shall refrain from using such images for any other purpose and undertakes to indemnify the Supplier in respect of any costs, losses or expenses incurred by the Supplier resulting from a breach of this clause.

14. CONFIDENTIALITY

A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.

15. INSURANCE AND DAMAGE

- 15.1 The Supplier shall have no responsibility whatsoever for loss of or damage to the Customer's property or premises except to the extent that the same is caused by the negligence, breach of statutory duty or default of the Supplier or its employees. It is the Customer's responsibility to obtain a policy of insurance to cover the risk of loss or damage to its premises.
- 15.2 The Customer shall indemnify the Supplier for all losses and liabilities (including legal and other professional costs and proceedings) relating to death or personal injury to persons or damage to Goods or property arising from any cause other than the negligence of the Supplier or its employees at the premises to which the Goods are delivered or the Services carried out.

- 15.3 The Supplier warrants that there is in force a policy of insurance to cover the Supplier's liability in respect of personal injury, death and injury or damage to property arising out of, in the course of or in connection with the performance of the Services.
16. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE
- 16.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - fraud or fraudulent misrepresentation;
 - breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 or section 12 of Sale of Goods Act 1979; or
 - defective products under the Consumer Protection Act 1987.
- 16.2 Except as provided in clause 5.2, the Supplier shall have no liability to the Customer in respect of the Goods' and/or Services' failure to comply with the warranty set out in clause 5.1.
- 16.3 Any sound attenuation or light output ratings quoted by the Supplier are either laboratory test ratings or calculated by the Supplier's engineers based on standardised parameters which are not specific to the location where the Goods are to be installed. Such ratings are to be treated as a guide only. The Supplier offers no guarantee of any specific level of sound attenuation or light output at the location where the Goods are to be installed due to external factors beyond the control of the Supplier. Although the Supplier may provide guidance in accordance with best practice, independent advice should be sought on sound attenuation and light output issues in the context of the location where the Goods are to be installed. The Supplier shall have no responsibility or liability whatsoever to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any purported loss, damage, cost, expense or liability arising out of or in connection with sound attenuation and/or light output of the Goods or in relation to the Goods.
- 16.4 Subject to clauses 16.1, 16.2 and 16.3:
- the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total sum payable to the Supplier under the Contract.
- 16.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

17. TERMINATION

- 17.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect (and the Supplier may cancel and/or suspend all further deliveries under the Contract or any other contract, without incurring liability to the Customer), by giving written notice to the other party if:
- the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 28 days of that party being notified in writing of the breach;
 - the other party 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;
 - the other party 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;
 - 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 that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - the other party (being an individual) is the subject of a bankruptcy petition or order;
 - a creditor or encumbrancer of the other party 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;
 - an application is made to court, or an order is made, for the appointment of an administrator or a notice of intention to appoint an administrator is given or an administrator is appointed over the other party (being a company);
 - a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 17.1(b) to clause 17.1(i) (inclusive);



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- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

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

17.3 Without limiting its other rights or remedies, the Supplier shall have the right to terminate the Contract for any reason by giving the Customer 1 months' written notice.

17.4 Without limiting its other rights or remedies, the Supplier shall have the right to suspend performance of its obligations under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 17.1(b) to clause 17.1(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the final date for payment.

18. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods and Services 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;
- (b) the Customer shall return all of the Supplier Materials and other materials 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 the Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, 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; and
- (d) clauses which remain capable of having effect after termination (including clause 16) shall continue in full force and effect.

19. GENERAL

19.1 Force majeure:

- (a) For the purposes of the Contract, Force Majeure Event means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from performing its obligations under the Contract for more than 4 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate the Contract immediately by giving written notice to the Customer.

19.2 Assignment and subcontracting:

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

19.3 Notices:

- (a) Any notice required to be given to a party under or in connection with the Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- (b) Any notice shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- (c) This clause 19.3 shall not apply to the service of any proceedings or other documents in any legal action.

19.4 Waiver:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. 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.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.



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- 19.5 Severance: If a court or any other 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 deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 19.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between the parties, nor constitute any party the agent of the other party. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 19.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 19.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract and/or Specification, shall only be binding when agreed in writing and signed by the Supplier.
- 19.9 Adjudication. If the Contract includes Services and any dispute or difference arises between the parties under or in relation to the Contract, either party may give written notice at any time of its intention to refer the dispute to adjudication. Adjudications shall be governed by the Scheme for Construction Contracts (England & Wales) Regulations 1998 (as amended) and the adjudicator nominating body shall be the Royal Institution of Chartered Surveyors.
- 19.10 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, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.
- 19.3 Notices:
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 - This clause 19.3 shall not apply to the service of any proceedings or other documents in any legal action.
- 19.4 Waiver:
- A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. 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.
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