

Hemsec Manufacturing Limited Conditions of Sale

1. Interpretation

1.1 Definitions:

"Buyer" means the person, firm, company or organisation who purchases the Goods from the Seller.

"Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller in accordance with Condition 10.4 and a reference to a numbered condition shall be a reference to the relevant numbered condition set out in this document.

"Contract" means the contract for the sale and purchase of the Goods in accordance with these Conditions.

"Diamond Guarantee" has the meaning given in Condition 7.11.

"Force Majeure Event" an event or circumstance beyond a party's reasonable control, short particulars of which are set out in Condition 8.2.

"Goods" means the goods (including any instalment of the goods or any part of them) as identified and set out in accordance with Condition 3.1.

"Seller" means Hemsec Manufacturing Limited incorporated and registered in England and Wales with company number 01868298 whose registered office is at Lonsdale & Marsh, 7th Floor, Cotton House, Old Hall Street, Liverpool, L3 9TX.

"Specification" means any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Buyer and the Seller.

1.2 Interpretation:

- 1.2.1 "Writing" or "Written" includes letter, faxes, email and other comparable means of communication.
- 1.2.2 Any reference in these Conditions to any statute or statutory provision shall be construed as a reference to that provision or statute as amended, re-enacted or extended at the relevant time. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.2.3 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.
- 1.2.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. Basis of Contract

- 2.1 These Conditions shall govern the Contract to the exclusion of any other terms and conditions that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 An order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions. The Buyer is responsible for ensuring the terms of any order (including any applicable Specification) submitted by the Buyer are complete and accurate, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 2.3 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until the order has been confirmed in writing by the Seller's authorised representative, at which point the Contract shall come into existence.
- 2.4 The Buyer waives any rights 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.
- 2.5 All sketches, drawings, samples and advertising materials relating to the Goods including weights, dimensions and performance contained in the Seller's catalogues, price lists and other advertising matter are intended for the sole purpose of presenting an approximate idea of the Goods referred to in them and none of these shall form part of the Contract nor have any contractual force unless specifically agreed in writing by the Seller.
- 2.6 A quotation for the Goods given by the Seller shall not constitute an offer. All prices quoted are valid for 30 days only, from its date of issue, after which time they may be altered by the Seller without giving notice to the Buyer or until earlier acceptance by the Buyer.

3. Orders and Specifications

- 3.1 The Goods are described in the Seller's catalogue as modified by any applicable Specification.
- 3.2 The Specification and design of the Goods (including the copyright design right or other intellectual property rights in them) shall as between the parties be the property of the Seller. If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a Specification submitted by the Buyer the Buyer shall indemnify the Seller against all liabilities, loss, damages, costs and expenses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for actual or alleged infringement of any third party's intellectual property rights arising out of or in connection with the Seller's use of the Buyer's Specification. This Condition 3.2 shall survive termination of the Contract.
- 3.3 The Seller reserves the right to make any changes in the Specification of the Goods which are required to conform with any applicable safety or other statutory requirements or where the Goods are to be supplied to the Seller's Specification.

- 3.4 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit) costs (including the cost of all labour and materials used) damages, charges and expenses incurred by the Seller as a result of cancellation including any direct, indirect or consequential loss and (by way of example and without limitation) any damages which the Seller must pay to suppliers with whom the Seller has contracted in furtherance of the performance of the Contract.
- 3.5 The Seller reserves the right to make minor alterations or improvements in design or methods of manufacture without notice to the Buyer.
- 3.6 No right or licence is granted under these Conditions to the Buyer under any patent, trademark, copyright, registered design or other intellectual property right except the right to use or resell the Goods.

4. Price and Payment of the Goods

- 4.1 The price of the Goods shall be the Seller's quoted price or where no price has been quoted (or a quoted price is no longer valid) the price list in the Seller's published price list current at the date of delivery.
- 4.2 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- 4.3 The Seller reserves the right, to give notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
 - 4.3.1 any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuations, increases in taxes and duties, increases in the costs of labour, materials, or other manufacturing costs).
 - 4.3.2 any change in delivery dates, quantities, types, or Specifications of the Goods ordered, which is requested by the Buyer; or
 - 4.3.3 any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.
- 4.4 Except as otherwise stated under the terms of any quotation or in any price list of the Seller and unless otherwise agreed in writing between the Buyer and the Seller all prices are given by the Seller on an ex works basis and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises the Buyer shall be liable to pay the Seller's charges for transport packaging and insurance.
- 4.5 The price of the Goods:
 - 4.5.1 is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller at the prevailing rate, and any other applicable tax which is from time to time in force, subject to the receipt of a valid VAT invoice; and
 - 4.5.2 excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Buyer.
- 4.6 The Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after the completion of delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 4.7 The Buyer shall pay the invoice in full and in cleared funds in pounds sterling within 30 days of the date of the Seller's invoice notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. Time for payment is of the essence. Payment shall be made to the bank account nominated in writing by the Seller. Receipts for payment will be issued only upon request.
- 4.8 The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.
- 4.9 The Seller shall have a general and particular lien over any property of the Buyer in its possession in respect of any monies due to the Seller from the Buyer from time to time.
- 4.10 If the Buyer fails to make any payment on the due date, then without prejudice to any other right or remedy available to the Seller the Seller shall be entitled to:
 - 4.10.1 cancel the Contract or suspend any further deliveries to the Buyer.
 - 4.10.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer).
 - 4.10.3 charge the Buyer interest on the amount unpaid at the rate of 3 per centum per annum above Barclays Bank plc base rate from time to time until payment in full is made. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, (both before and after any judgement). The Buyer shall pay the interest together with the overdue amount; and
 - 4.10.4 require the Buyer on written demand by the Seller, to assign to the Seller the right to payment in respect of Goods sold to a customer of the Buyer.
- 4.11 The Seller may from time to time notify the Buyer of a credit limit and without prejudice to the remainder of these Conditions shall be entitled to take one or more of the following steps whenever the Buyer has exceeded the credit limit notified to it:
 - 4.11.1 to revoke its acceptance of any order placed by the Buyer.
 - 4.11.2 to require the Buyer to pay in advance of delivery for outstanding orders for Goods notwithstanding any credit terms agreed between the parties; or
 - 4.11.3 to suspend deliveries of Goods.
- 4.12 The credit limit referred to in Condition 4.11 may be adjusted up or down or withdrawn, as the Seller may consider reasonable in the circumstances.

5. Delivery

- 5.1 The Seller shall ensure that:
- 5.1.1 each delivery of the Goods is accompanied by a delivery note that shows the date of the order, and all relevant Buyer and Seller reference numbers, 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; and
 - 5.1.2 if the Seller requires the Buyer to return any packaging materials to the Seller, that fact is clearly stated on the delivery note. The Buyer shall make any such packaging materials available for collection at such times as the Seller shall reasonably request. Returns of packaging materials shall be at the Seller's expense.
- 5.2 The Buyer shall collect the Goods from the Seller's premises at Stoney Lane, Rainhill, Prescot, Merseyside, L35 9LL or some other place as may be advised by the Seller prior to delivery ("Delivery Place") within three Business Days of the Seller notifying the Buyer that the Goods are ready or the Seller 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 Seller notifies the Buyer that the Goods are ready.
- 5.3 Without prejudice to Condition 5.4, delivery is completed on the completion of loading or unloading of the Goods at the Delivery Place or Delivery Location.
- 5.4 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of Goods. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date (and by one or more deliveries) upon giving reasonable notice to the Buyer.
- 5.5 Where the Goods are to be or are delivered in instalments, each delivery shall constitute a separate contract and any delay or failure by the Seller in delivery or defect in any one or more of the instalments, in accordance with these Conditions, or any claim by the Buyer in respect of any one or more instalments, shall not entitle the Buyer to cancel any other instalment or treat the Contract as a whole as repudiated.
- 5.6 If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality (in the cheapest available market) less the price of the Goods. The Seller shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.7 If the Buyer fails to take delivery of the Goods within three Business Days of the Seller notifying the Buyer that the Goods are ready or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than where such failure or delay is caused by a Force Majeure event or the Seller's failure to comply with its obligations under the Contract then, without prejudice to any other right or remedy available to the Seller, the Seller may:
- 5.7.1 Deem that the Goods have been delivered and completed at 9.00am on the third Business Day after the day on which the Seller notified the Buyer that the Goods were ready; and
 - 5.7.2 store the Goods until actual delivery takes place and charge the Buyer for all related reasonable costs and expenses (including insurance).
- 5.8 If ten Business Days after the day on which the Seller notified the Buyer that the Goods were ready for delivery the Buyer has not taken delivery of them, then the Seller may resell or otherwise dispose of part or all of the Goods and, after deducting all reasonable costs and selling expenses, account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price of the Goods under the Contract.

6. Risk and title

- 6.1 Risk of damage to or loss of the Goods shall pass to the Buyer on completion of delivery in accordance with Condition 5.2.
- 6.2 Title to the Goods shall not pass to the Buyer until the earlier of:
- 6.2.1 the Seller receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Seller has supplied to the Buyer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
 - 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 Condition 6.4.
- 6.3 Until such time as the title in the Goods passes to the Buyer, the Buyer shall:
- 6.3.1 Store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property.
 - 6.3.2 not remove, deface, or obscure any identifying mark or packaging on or relating to the Goods.
 - 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.
 - 6.3.4 notify the Seller immediately if it becomes subject to any of the events listed in Condition 9.1; and
 - 6.3.5 give the Seller such information relating to the Goods as the Seller may require from time to time.
- 6.4 Subject to Condition 6.5, the Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Seller receives payment for the Goods. However, if the Buyer resells the Goods before that time:
- 6.4.1 it does so as principal and not as agent of the Seller; and
 - 6.4.2 title to the Goods shall pass from the Seller to the Buyer immediately before the time at which resale by the Buyer occurs.

- 6.5 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in Condition 9.1, then, without limiting any other right or remedy the Seller may have:
- 6.5.1 the Buyer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - 6.5.2 the Seller shall be entitled at any time:
 - 6.5.2.1 to require the Buyer to deliver up the Goods to the Seller in its possession that have not been resold or irrevocably incorporated into other products; and
 - 6.5.2.2 if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored or thought by the Seller to be stored and repossess the Goods.
- 6.6 If the Goods have been joined or connected in any way to other chattels in such a way that the Goods are nevertheless readily identifiable and removable the Seller shall be entitled to remove and repossess the Goods pursuant to Condition 6.5 regardless of the practical difficulty of so doing or the damage caused to such other chattels or any other property or assets in the course of taking all reasonable steps to effect such removal (whether such chattels, property or assets belong to the Buyer or to third parties) and the Buyer waives any claim it may have against the Seller for any actual or alleged damage caused to its chattels or other property as a result of taking such reasonable steps and shall indemnify the Seller in full 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 reasonable professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller by any third party arising out of or in connection with such reasonable steps being taken by the Seller.
- 6.7 If the Buyer incorporates the Goods with other equipment or products ("the New Goods") in such a way that the Goods are not readily identifiable or a removable part of the New Goods, the Buyer shall store such New Goods separately and shall notify the Seller of the precise location and position thereof and the ownership of such New Goods and the property therein shall vest in the Seller.
- 6.8 Upon any sale of any Goods falling within the scope of Condition 6.7 by the Seller, then if the proceeds of sale exceed the price or the balance of the price of the Goods due to the Seller from the Buyer, the Seller shall apply the balance of the proceeds of sale as follows:
- 6.8.1 first, reimbursing the Seller the cost and expense of the taking of possession and the sale of the New Goods and any damages which the Seller has suffered as a result of any repudiation of the contract by the Buyer.
 - 6.8.2 secondly, paying any sums due and owing to other creditors of the Buyer in respect of other items and materials used in connection with the manufacture of the New Goods where the property in such items and materials has remained vested in such other creditors by reason of effective reservation of title clauses and the claims of such other creditors pursuant to such reservation of title clauses have been notified to the Seller by the Buyer or its liquidator, administrator or receiver or by such other creditors.

7. Warranties and Liability

- 7.1 The Seller warrants that on delivery, and for a period of 12 months from the date of delivery (warranty period), the Goods shall:
- 7.1.1 conform in all material respects with their description and any applicable Specification; and
 - 7.1.2 be free from material defects in design, material and workmanship; and
 - 7.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - 7.1.4 be fit for any purpose held out by the Seller.
- 7.2 Subject to Condition 7.3, if:
- 7.2.1 the Buyer gives notice in writing to the Seller during the warranty period within a reasonable time of discovery that some or all the Goods do not comply with the warranty set out in Condition 7.1.
 - 7.2.2 the Seller is given a reasonable opportunity of examining such Goods; and
 - 7.2.3 the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business free of charge, the Seller shall, at its option, repair or replace the defective Goods, (or the part in question) or in the Seller's sole discretion refund to the Buyer the price of the defective Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer whatsoever.
- 7.3 The Seller shall not be liable for the Goods' failure to comply with the warranty set out in Condition 7.1 in any of the following events:
- 7.3.1 the Buyer makes any further use of such Goods after giving notice in accordance with Condition 7.2.
 - 7.3.2 the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same.
 - 7.3.3 the defect arises as a result of the Seller following any drawing, design or Specification supplied by the Buyer.
 - 7.3.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, abnormal storage or working conditions.
 - 7.3.5 the Buyer's failure to follow the Seller's instructions (whether oral or in writing).
 - 7.3.6 accidents which the Goods cannot reasonably be expected to withstand.
 - 7.3.7 the Buyer alters or repairs such Goods without the Seller's written approval.
 - 7.3.8 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 7.4 The Seller shall be under no liability under the above warranty (or any other warranty condition or guarantee, including (if applicable) a Diamond Guarantee) if the total price for the Goods has not been paid by the due date for payment.

- 7.5 The above warranty does not extend to parts materials or equipment not manufactured by the Seller 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 Seller.
- 7.6 The Buyer shall check the Goods thoroughly forthwith upon delivery and any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with the Specification shall (whether or not delivery is refused by the Buyer) be notified in writing to the Seller within seven (7) days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) during the Warranty Period. If delivery is not refused and the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject the Goods and the Seller 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.
- 7.7 Except as provided in this Condition 7, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in Condition 7.1.
- 7.8 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.
- 7.9 These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.
- 7.10 Subject as expressly provided in these Conditions and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

7.11 Diamond Guarantee

- 7.11.1 The Seller may, at its discretion, provide a warranty in relation to certain Goods on equivalent terms as those set out in Condition 7.1, save that the warranty shall apply for an extended period of time to be notified by the Seller in writing, in accordance with this Condition 7.11 (Diamond Guarantee). To apply for a Diamond Guarantee in relation to any Goods, the Buyer must complete and return a Diamond Guarantee Application Form, which is available from the Seller on request. The Seller shall review such application and, taking into consideration the information provided by the Buyer as part of the application, determine whether or not to provide the Diamond Guarantee in relation to the relevant Goods. Successful applications will be notified to the Buyer in writing, together with further details of the Diamond Guarantee, including the extended warranty period.
- 7.11.2 If a third-party guarantee or warranty is made available in relation to any parts, materials or equipment not manufactured by the Seller (Third Party Product) and which are included or incorporated within Goods that have been granted the benefit of a Diamond Guarantee, the Buyer must ensure that such third-party guarantee or warranty is obtained and its terms complied with. Any Diamond Guarantee granted in accordance with Condition 7.11.1 will cease to apply to:
- (i) any Third-Party Product upon a third-party guarantee or warranty becoming invalidated for any reason; and
 - (ii) to the Goods to the extent that a warranty claim under this Condition 7 is attributable to a defect in a Third-Party Product for which the applicable third-party guarantee or warranty has become invalid.
- 7.11.3 As part of the application process for a Diamond Guarantee, the Buyer must provide written confirmation that all product care, storage, commissioning, installation, usage and maintenance instructions provided to the Buyer by the Seller, or any third party, in relation to the relevant Goods have been complied with in full at all times. The Diamond Guarantee will cease to apply in the event that the Buyer or any third party fails to comply with this Condition 7.11.3.
- 7.11.4 The Buyer must supply the operations and maintenance manual for the finished building project for which the Goods are supplied, so that the Seller is able to assess on-going compliance with the applicable building's maintenance obligations. The Diamond Guarantee will cease to apply in the event that the Buyer or any third party fails to comply with the operations and maintenance manual in such a way that, in the Seller's reasonable opinion, has an adverse effect on the Goods.
- 7.11.5 The Buyer shall ensure that a thermal imaging scan is undertaken, at the Buyer's cost, following installation of the Goods, which demonstrates, to the Seller's reasonable satisfaction, that the Goods have been installed without any material defects and in compliance with the current installation guides issued by the following organisations:
- (i) CEBA (Controlled Environments Building Association).
 - (ii) STA (Structural Timber Association).
 - (iii) BBA (British Board of Agrément); and
 - (iv) ETA (European Technical Assessment).
- The Diamond Guarantee shall cease to apply in the event that the Buyer fails to comply with this Condition 7.11.5.
- 7.11.6 Notwithstanding any of the provisions of this Condition 7.11, the other terms of this Condition 7 shall apply equally to any Diamond Guarantee provided by the Seller, save that any reference to warranty period shall be deemed to be a reference to the extended warranty period to be notified by the Seller to the Buyer in accordance with Condition 7.11.1.

8. Limitation of Liability

- 8.1 The Buyer's attention is in particular drawn to the following limitation of liability provisions.
- 8.1.1 The following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- 8.1.1.1 any breach of these Conditions or any Contract; and
 - 8.1.1.2 any representation (other than fraudulent representation), statement or tortious act or omission including negligence arising under or in connection with these Conditions or any Contract.

- 8.1.2 Nothing in these Conditions shall exclude or limit the liability of the Seller for:
- 8.1.2.1 death or personal injury caused by the Seller's negligence, or the negligence of its employees, agents, or subcontractors (as applicable).
 - 8.1.2.2 fraud or fraudulent misrepresentation.
 - 8.1.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - 8.1.2.4 defective products under the Consumer Protection Act 1987.
- 8.1.3 Subject to Condition 8.1.2:
- 8.1.3.1 the Seller shall under no circumstances whatsoever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for: (i) any economic loss, loss of profit, business, revenue, goodwill or anticipated savings; or (ii) any special, indirect or consequential loss; or (iii) any loss arising from any claim against the Buyer by any other person, arising under or in connection with the Contract; and
 - 8.1.3.2 the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, or otherwise shall be limited to the invoice price of the Goods.
- 8.2 The Seller shall not be in breach of the Contract nor liable for delay in performing, or any failure to perform, any of the Seller's obligations under the Contract if such delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Seller's reasonable control:
- 8.2.1 Act of God explosion flood tempest fire or accident.
 - 8.2.2 war or threat of war sabotage insurrection civil disturbance or requisition.
 - 8.2.3 acts restrictions regulations byelaws prohibitions or measures of any kind on the part of any governmental parliamentary or local authority.
 - 8.2.4 import or export regulations or embargoes.
 - 8.2.5 strikes lockouts or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party).
 - 8.2.6 difficulties in obtaining raw materials, labour, fuel, parts, or machinery.
 - 8.2.7 power failure or breakdown in machinery; and
 - 8.2.8 failure by the Buyer to correctly store, protect, handle or otherwise deal with the Goods. ("Force Majeure Event")

9. Termination

- 9.1 Without limiting its other rights or remedies, the Seller may terminate this Contract with immediate effect by giving written notice to the Buyer if:
- 9.1.1 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 14 days of that party being notified in writing to do so.
 - 9.1.2 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), 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;
 - 9.1.3 the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 9.1.4 the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.2 Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in Condition 9.1.1 to Condition 9.1.4 or the Seller reasonably apprehends that the Buyer is about to become subject to any of the events, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.
- 9.3 Without prejudice to any other rights or remedies available to the Seller, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer or if the Buyer fails to pay any amount due under the Contract on the due date for payment or suspend any further deliveries under the Contract without any liability to the Buyer.
- 9.4 On termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest.
- 9.5 Termination of the Contract 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 this Contract that existed at or before the date of termination.
- 9.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10. General

- 10.1 Notices. Any notice or other communication given by either party to the other under or in connection with these Conditions shall be in writing, addressed to that other party at its registered office (if it is a company) or principal place of business (in any other case) or such other address as may at the relevant time have been notified in writing pursuant to this provision to the party giving the notice, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax or email. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in this Condition 10.1 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; 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 or email, one Business Day after transmission. The provisions of this Condition shall not apply to the service of any proceedings or other documents in any legal action.

- 10.2 Entire Agreement. This 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. 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 this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 10.3 Assignment and other dealings. The Seller may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Buyer may not assign, transfer, mortgage, charge, subcontract, 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 Seller.
- 10.4 Variation. No variation to these Conditions shall be binding unless agreed in writing by the parties (or their authorised representatives).
- 10.5 Waiver. 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.
- 10.6 Third party rights. No one other than a party to this Contract shall have any right to enforce any of its terms.
- 10.7 Severance. If any provision or part-provision of these Conditions or the Contract is or becomes invalid, illegal or unenforceable it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this condition shall not affect the validity and enforceability of the rest of the Conditions or the Contract.
- 10.8 Governing law and Jurisdiction. 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 and each party irrevocably agrees that the English courts shall have non-exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.