



# Killgerm®

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you're in safe hands!

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## STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS

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#### 1 INTERPRETATION

1.1 In these Conditions, the following definitions and rules of interpretation shall apply:

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

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clauses 17.1 and/or 17.2.

**Contract:** the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

**Controlled Products:** includes but is not limited to Goods which are subject to the requirements set out in any of; the Control of Pesticides Regulations 1986 and 1987 (as amended), the Control of Pesticides (Amendment) Regulations 1997, the Plant Protection Products Regulations 2005, or the Poisons Rules.

**Customer:** the person or firm who purchases the Goods from the Supplier.

**Document:** includes all instruction or training manuals relating to the Goods and in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

**Force Majeure Event:** has the meaning given in clause 13.

**Goods:** the goods (or any part of them) to be provided by the Supplier to the Customer as set out in the Order.

**Incoterms:** means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force as at the date when the Contract is made.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Order:** the Customer's order for the Goods, as submitted in accordance with clause 3.1.

**PPE:** the personal protective equipment, which may be required or recommended to use the Goods.

**Poisons Rules:** incorporating the Poisons Act 1972 and the Poisons (Amendment) Rules 1989.

**Supplier:** Killgerm Chemicals Limited (registered in England and Wales with company number 02794829).

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

1.3 A reference to a party includes its personal representatives, successors or permitted assigns.

1.4 A reference to a statute or statutory provision is a reference to such statute or 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.

1.5 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.

1.6 A reference to writing or written includes faxes and e-mails.

1.7 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of the Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, these Conditions shall prevail.

#### 2 BASIS OF CONTRACT

2.1 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.

2.2 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier, which is not set out in the Contract. Any samples, drawings, descriptive matter, or advertising issued by the Supplier and any descriptions or illustrations contained in the

Supplier's catalogues, brochures or on the Supplier's web site are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or any other contract between the Supplier and the Customer for the sale of the Goods or have any contractual force.

2.3 Nothing in these Conditions will affect the statutory rights of the Customer if he "deals as a consumer" pursuant to section 12 of the Unfair Contract Terms Act 1977 (as amended from time to time).

2.4 The PPE illustrated in the Supplier's catalogue or on the Supplier's web site are recommendations made by the Supplier to the Customer when the Customer is using Goods for their intended purpose. The Supplier's suggested PPE is for illustration purposes only and should not be relied upon by the Customer.

2.5 For full requirements on the PPE for use with the Goods, the Customer should refer to the product label and safety data sheet relating to the Goods and should take into account the Customer's own circumstances or Customer's intended use for the Goods. The Supplier's PPE illustrations should in no way replace any part of a Customer's control of substances hazardous to health assessment and the Supplier will not be responsible for any loss or damage arising from the Customer's reliance upon, and sole use of, the PPE's illustrated in the Supplier's catalogue and on the Supplier's website.

2.6 A quotation for the Goods given by the Supplier is subject to these Conditions and shall not constitute an offer. A quotation can be given by the Supplier orally or in writing but shall only be valid for the period of time from the date it is issued, as confirmed by the Supplier (if oral) or set out on such quotation (if in writing). If no such period of time is confirmed or set out (as applicable) a quotation shall only be valid for the period of 2 Business Days from the date it was given to the Customer by the Supplier.

2.7 If the Customer places an Order through the Supplier's website, the Customer warrants that it is legally capable of entering into binding contracts and (if an individual) the Customer is at least 18 years old.

2.8 The Supplier implements in their business the requirements posed by the UK Rodenticide Stewardship Regime.

#### 3 ORDERS

3.1 When the Customer wishes to place an Order, it shall:

3.1.1 send its written purchase order to the Supplier; or

3.1.2 submit an Order either orally, or in writing to the Supplier; or

3.1.3 accept either orally, or in writing the Supplier's quotation; or

3.1.4 place an Order via an email generated and sent to the Supplier using the Supplier's website.

3.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.

3.3 Each Order shall be deemed to be a separate offer by the Customer to buy the Goods on the terms of these Conditions, which the Supplier shall be free to accept or decline at its absolute discretion. Prior to acceptance of the Order, the Supplier may, at its absolute discretion, request evidence in writing of the Customers (or its contractors, agents or employees) qualifications to handle and use Controlled Products.

3.4 Subject to clause 4.1, no Order shall be deemed to be accepted by the Supplier until it issues a written or email acceptance of the Order, or (in circumstances where no written or email acceptance is provided) completion of despatch of the Goods by the Supplier for delivery to the Customer, or the Supplier notifies the Customer that the Goods are ready for collection (as the case may be).

3.5 The Contract will only relate to those Goods set out in the Order and which the Supplier has accepted in accordance with clause 3.4.

3.6 Subject to clause 3.7, the Customer may at any time prior to despatch of the Goods amend or cancel an Order by written notice to the Supplier. If the Customer amends or cancels an Order, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Order up until the date of amendment or cancellation.

3.7 The Customer cannot amend or cancel an Order or a Contract in accordance with 3.6 without the written consent of the Supplier if; the packaging or labelling on the Goods is to the Customer's own specification or, the Customer is in breach of any of the provisions set out in clause 4. Such consent is at the Supplier's sole discretion after acceptance of an Order. If the Supplier consents to such amendments or cancellation of an Order or Contract, the Customer's liability to the Supplier shall be limited to the payment to the Supplier of all costs reasonably incurred by the Supplier if fulfilling the Order and/or Contract up to the date of amendment or cancellation.

3.8 The Supplier may cancel an Order at any time before the Goods are delivered or supplied by giving written notice to the Customer. On giving such written notice the Supplier shall promptly repay to the

Customer any sum paid in respect of the price of the Goods.

#### 4 SPECIAL CONDITIONS

##### 4.1 Poisons

4.1.1 Any Goods marked (P) including Degesch Fumigation Tablets and Plates, Phostoxin and Talunex Tablets are subject to the Poisons Rules and can only be supplied to authorised Customers against an Order signed by an authorised representative of the Customer and stating the purpose for which the Goods are to be used.

4.1.2 Notwithstanding the requirements specified in clause 4.1.1, the Goods known as Degesch Fumigation Tablets and Plates require the Customer to have the relevant approved qualification and therefore an Order for such Goods will not be accepted by the Supplier unless the Customer provides evidence satisfactory to the Supplier that the Customer is qualified and competent.

##### 4.2 Pesticides – Risk Reduction

Before Customers use Goods known as biocides they should always read the label and product information relating to the Goods before use.

##### 4.3 Electrical Goods and Spares – Risk Reduction

To offset any risks associated with electrical Goods the Supplier advises the following:

4.3.1 disconnect from the mains before attempting any maintenance work or repairs to the Goods; and

4.3.2 if in any doubt, always consult a qualified electrician.

##### 4.4 The Carriage of Dangerous Goods – Delivery

4.4.1 Some of the Goods (including those detailed below) fall within the scope of regulations and other legislation which apply from time to time to the carriage of dangerous goods and use of transportable pressure equipment:

4.4.1.1 Degesch Fumigation Tablets and Plates;

4.4.1.2 Phostoxin; and

4.4.1.3 Talunex.

4.4.2 The Goods referred to in clause 4.4.1 will be packed in UN packaging, with relevant marking and labelling requirements and supported with dangerous goods notes.

4.4.3 The Supplier's usual carriers will not carry the Goods referred to in clause 4.4.1 and the Supplier will use a specialist carrier that will result in the cost of delivery of the Goods being higher and the Goods taking longer than the Customer would ordinarily expect in relation to other Goods supplied by the Supplier.

##### 4.5 Approval Categories

4.5.1 Goods classified as pesticides may only be used for the purposes for which they have been approved. The label attached to those Goods and any Document relating to the Goods set out the application, application method and application rate.

4.5.2 The application section of conditions of approval indicate the types of user and areas of use. These are "amateur" or "professional". These classifications apply to the Goods classified as insecticides, rodenticides, biocides and wood preservatives.

##### 4.6 Export Terms

4.6.1 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 4.6 shall (subject to any special terms agreed in writing between the Customers and the Supplier) apply notwithstanding any other provision of these Conditions.

4.6.2 The Customer shall be responsible for arranging for testing and inspection of the Goods at the Supplier's premises before shipment. The Supplier shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

4.6.3 Unless otherwise agreed in writing between the Customer and the Supplier, the Goods shall be supplied in accordance with INCOTERMS® 2010.

4.6.4 The Customer will be responsible for the payment of any import duties and taxes which are levied when the Goods reach the specified destination and for contacting its own local customs office for details about such duties and taxes as these may vary from country to country. The Supplier has no control over these charges and cannot predict their amount and advises the Customer to contact its local customs office for further information before placing an Order.

4.6.5 The Customer shall be responsible for complying with any legislation or regulations governing the importation of Goods into the country of destination.

#### 5 DELIVERY OF GOODS

5.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order,

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| all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.  | to the Customer in respect of the Goods' failure to comply with any warranty or guarantee relating to the Goods.  | of the month following the month in which the invoice was dated. Payment shall be made to the bank account nominated in writing by the Supplier, or by the Customer's credit or debit card. Time is of the essence in relation to payments arising under the Contract.  |
| 5.2 When the Customer places an Order it shall provide the Supplier with the delivery location for the Goods and:   | 6.4 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.   | 8.13 The Supplier shall be entitled to cancel or suspend deliveries under the Contract and/or any other contract, which the Supplier may have with the Customer, if full payment is not made by the Customer, and if such payment or any part of it (including interest) shall remain in arrears for 5 Business Days after a written demand from the Supplier, the Supplier has the right to cancel the Contract and/or any other contract with the Customer, and in either case without prejudice to any other rights or remedies the Supplier may have.   |
| 5.2.1 if the Supplier is to deliver or procure delivery of the Goods, the Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree at any time before the Goods are dispatched for delivery; or  | 7 TITLE AND RISK<br>7.1 The risk in the Goods shall pass to the Customer on completion of delivery.<br>7.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:<br>7.2.1 the Goods; and<br>7.2.2 all other sums which are or which become due to the Supplier for sales of the Goods or any other products or services to the Customer.  | 8.14 The Supplier shall have the right, after providing notice to the Customer in writing, to cancel or suspend deliveries under the Contract and/or any other contract with the Customer without giving rise to any claim whatsoever by the Customer (even though the Customer may not be in arrears with any payment) where the Supplier considers the amount owed from the Customer (whether actually due for payment or not) is the limit to which the Supplier is prepared to allow the Customer credit.   |
| 5.2.2 if the Customer is to collect the Goods, the Customer shall collect the Goods from the Supplier's premises at 115 Wakefield Road, Ossett, West Yorkshire WF5 9AR, or such other location as may be advised by the Supplier at any time prior to delivery.   | 7.3 Until title to the Goods has passed to the Customer, the Customer shall:  | 8.15 If the Customer's account becomes overdue all sums payable to the Supplier under any other contract between the Supplier and the Customer shall become immediately due and payable notwithstanding the terms for payment stipulated in such other contract.  |
| 5.3 Delivery of the Goods shall be completed, in the case of the Supplier's delivery of the Goods, on the Goods' arrival at the location referred to in clause 5.2.1, or in the case of the Customer's collection of the Goods on the completion of loading of the Goods at the location referred to in clause 5.2.2.   | 7.3.1 hold the Goods on a fiduciary basis as the Supplier's bailee;<br>7.3.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;  | 8.16 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (due date), then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above HSBC Bank Plc's base lending rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.   |
| 5.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods, including as a result of a Force Majeure Event or 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.   | 7.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;<br>7.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;  | 8.17 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 at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.   |
| 5.5 As the Supplier's carrier will not accept liability for damage, or non-delivery of all or part of the Goods unless the carrier is notified of any damage or non-delivery at the time of delivery, damage or non-delivery of any Goods must be notified to the Supplier's carrier in writing on delivery and a Customer's claim for such damage to, or partial non-delivery or non-delivery of all of the Goods, must be submitted orally, or in writing to the Supplier within 3 Business Days of delivery of the Goods.  | 7.3.5 notify the Supplier immediately if it becomes subject to any of the events listed in clause 11.1; and<br>7.3.6 give the Supplier such information relating to the Goods 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.<br>7.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 11.1, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods 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.   | 9 LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION  |
| 5.6 If the Goods are damaged in transit or the Supplier fails to deliver all or part of the Goods, its liability shall be limited to (at the Supplier's sole discretion) replacement of the Goods damaged or which the Supplier failed to deliver, or a refund of the price paid by the Customer for the damaged or non-delivered Goods. The Supplier 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 Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. | 8 PRICE AND PAYMENT<br>8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force and set out in the Supplier's catalogue or on the Supplier's website as at the date of delivery of the Goods.<br>8.2 The Supplier's price list, catalogue or website contains a number of goods which the Supplier can supply to the Customer and it is always possible that, despite the Supplier's best efforts, some of the goods set out on our price list, catalogue or website may be incorrectly priced. If goods are incorrectly priced the Customer will have the opportunity to decline or accept the revised price at the time of placing an Order.<br>8.3 If the pricing error is obvious and unmistakable and could have reasonably been recognised by the Customer as an error the Supplier is under no obligation to provide the Goods to the Customer at the incorrect price.<br>8.4 Notwithstanding the provisions of clauses 8.1 to 8.3 (inclusive), the Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:<br>8.4.1 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);<br>8.4.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or<br>8.4.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions. | 9.1 This clause 9 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:  |
| 5.7 If the Customer fails to notify the Supplier within the period of time referred to in clause 5.5, fails to accept delivery of the Goods from the Supplier or the Supplier's carrier, or to collect the Goods (if applicable) within 3 Business Days of the Supplier notifying the Customer that the Goods are ready for collection, 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:  |   | 9.1.1 any breach of the Contract, including any deliberate personal repudiatory breach, or any deliberate breach of the Contract by the Supplier, or its employees, agents or subcontractors;   |
| 5.7.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and  |   | 9.1.2 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.  |
| 5.7.2 the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).  |   | 9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.  |
| 5.8 If the Customer fails to accept delivery of the Goods from the Supplier or the Supplier's carrier, or if 3 Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them (as applicable), the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.   |   | 9.3 Nothing in these Conditions limits or excludes the liability of the Supplier for the following:<br>9.3.1 death or personal injury resulting from negligence; or<br>9.3.2 any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier; or<br>9.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or<br>9.3.4 defective products under the Consumer Protection Act 1987.   |
| 5.9 The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata increase or reduction shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.  |   | 9.4 Subject to clause 9.2 and clause 9.3:<br>9.4.1 the Supplier shall not be liable (whether in contract, tort (including negligence) breach of statutory duty, or otherwise) for:<br>9.4.1.1 loss of profits; or<br>9.4.1.2 loss of business; or<br>9.4.1.3 depletion of goodwill and/or similar losses; or<br>9.4.1.4 loss of anticipated savings; or<br>9.4.1.5 loss of goods; or<br>9.4.1.6 loss of contract; or<br>9.4.1.7 loss of use; or<br>9.4.1.8 loss of corruption of data or information; or<br>9.4.1.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.<br>9.4.2 the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the greater of:<br>9.4.2.1 one hundred thousand pounds (£100,000.00); or<br>9.4.2.2 the price paid for the Goods. |
| 5.10 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.  |   | 9.4.2.3 the Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Supplier.   |
| 6 QUALITY   |   | 11 TERMINATION  |
| 6.1 As the Supplier is not the manufacturer of the Goods, the Supplier will use all reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given to the Supplier by the manufacturer of the Goods. Details of any warranty or guarantee of the Goods are set out on the packaging or label relating to the Goods. Subject to clause 6.3, if:  |   | 11.1 Without prejudice to any other rights or remedies which the Supplier may have, the Supplier may terminate a Contract without liability immediately on giving written notice to the Customer if:<br>11.1.1 the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 5 Business Days after being notified in writing to make such payment; or<br>11.1.2 the Customer commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 20 Business Days of that party being notified in writing of the breach; or  |
| 6.1.1 the Customer gives notice in writing to the Supplier during any warranty or guarantee period relating to the Goods within a reasonable time of discovery that some or all of the Goods do not comply with such warranty or guarantee; and   |   | 11.1.1  |
| 6.1.2 the Supplier is given a reasonable opportunity of examining such Goods; and   |   | 11.1.2  |
| 6.1.3 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 (as applicable to the Goods), or refund the price of the defective Goods in full.  |   | 10 DATA PROTECTION<br>The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Supplier.   |
| 6.2 The Supplier shall not be liable for the Goods' failure to comply with any warranty or guarantee relating to the Goods if:  | 8.9 In the event that payment for the Goods is not made by the Customer of placing an Order and the Customer is not purchasing on a pre-approved credit account with the Supplier in accordance with these Conditions, the Supplier shall not be obliged to process the Order and/or deliver the Goods until such payment has been made to the Supplier. Time of payment shall be of the essence to the Contract.   | 11  |
| 6.2.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 6.1; or  |   | 11.1  |
| 6.2.2 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 (if there are none) good trade practice; or   | 8.10 On payment for the Goods in accordance with clause 8.8 or 8.9, the Supplier shall issue a valid receipted VAT invoice to the Customer in respect of the price of the Goods.  | 11.1  |
| 6.2.3 the Customer alters or repairs such Goods without the written consent of the Supplier; or   |   | 11.1.1  |
| 6.2.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.  |   | 11.1.2  |
| 6.3 Except as provided in this clause 6, the Supplier shall have no liability   |   | 11.1.2  |
|   | Account Customers<br>8.11 The Supplier may invoice the Customer for the Goods on or at any time after the Customer places an Order with the Supplier.<br>8.12 Customers with a pre-approved credit account with the Supplier shall pay the invoice in full and in cleared funds on or before the 20th day   |   |



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| 11.1.3  | the Customer 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; or   | structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors, including the default of any carrier engaged by the Supplier in delivering the Goods.   |
| 11.1.4  | the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer; or   | 13.2 In the event of a Force Majeure Event resulting directly or indirectly in interfering with the means of production or transit of either raw or finished materials then delivery of the Goods sold or in the course of performance may be wholly or partially suspended by the Supplier who shall be entitled to be paid forthwith by the Customer for all service provided and Goods supplied up to the time of suspension or abandonment of the work.   |
| 11.1.5  | (being an individual) the Customer is the subject of a bankruptcy petition or order; or  | 14 WRITTEN COMMUNICATIONS   |
| 11.1.6  | a creditor or encumbrancer of the Customer 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; or  | Applicable laws require that some of the information or communication the Supplier sends to the Customer the Supplier should be in writing. When using the Supplier's website, the Customer accepts that communication with the Supplier will be mainly electronic. The Supplier will contact the Customer by e-mail or provide the Customer with this electronic means of communication and acknowledges that all contracts, notices, information and other communications that the Supplier provides to the Customer electronically comply with any legal requirement that such communications be in writing. This condition does not affect the Customer's statutory rights. |
| 11.1.7  | (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer; or   | 15 NOTICES  |
| 11.1.8  | (being a company) a floating charge holder over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver; or  | 15.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier, fax or e-mail.   |
| 11.1.9  | a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer; or   | 15.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.1; if sent by pre-paid first-class post or recorded delivery, 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 e-mail, one Business Day after transmission.   |
| 11.1.10 | any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1.1 to clause 11.1.8 (inclusive); or  | 15.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.  |
| 11.1.11 | the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; or   | 16 SEVERENCE  |
| 11.1.12 | the financial position of the Customer deteriorates to such an extent that in the opinion of the Supplier the capability of the Customer adequately to fulfil its obligations under the Contract has been placed in jeopardy; or   | 16.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.  |
| 11.1.13 | (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.   | 16.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.   |
| 11.1.14 | there is a change of control of the Customer (as defined in section 574 of the Capital Allowances Act 2001).   | 17 VARIATION  |
| 11.2    | For the purposes of clause 11.1.2 material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Supplier would otherwise derive from a substantial portion of this agreement over the term of any Contract. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.  | 17.1 The Supplier may, from time to time and without notice, change the Goods in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. If the Supplier requests a change to the scope of the Goods for any other reason, the Customer shall not unreasonably withhold or delay consent to it.  |
| 11.3    | On termination of a Contract for any reason:   | 17.2 The Supplier reserves the right to revise and amend these Conditions from time to time for reasons including changes in market conditions affecting the Supplier's business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in the Supplier's capabilities.   |
| 11.3.1  | the Supplier may cancel or suspend all further deliveries of the Goods under the Contract or under any other contract between the Customer and the Supplier without incurring any liability to the Customer;   | 17.3 The Customer will be subject to the Conditions in force at the time that it places an Order, unless any change to the Conditions is required to be made by law or governmental authority (in which case it will apply to Orders previously place by the Customer), or, if the Supplier notifies the Customer of the changes to the Conditions before the Supplier accepts the Order in accordance with clause 3.4 (in which case the Supplier has the right to assume that the Customer has accepted the change to the Conditions, unless the Customer notifies the Supplier to the contrary within 5 Business Days of receipt by the Customer of the Goods).              |
| 11.3.2  | the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the Goods supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt; and  | 17.4 Subject to clauses 17.1 to 17.3 (inclusive), no variation of the Contract or these Conditions or of any of the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.   |
| 11.3.3  | the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.   | 18 WAIVER   |
| 11.4    | On termination of the Contract (however arising), the following clauses shall survive and continue in full force and effect:   | 18.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. 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.  |
| 11.4.1  | clause 1;  | 18.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.  |
| 11.4.2  | clause 9;  | 19 ASSIGNMENT   |
| 11.4.3  | clause 11;   | 19.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under the Contract.  |
| 11.4.4  | clause 12;   | 19.2 The Supplier may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of 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.  |
| 11.4.5  | clause 13;   | 19.3 Each party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.   |
| 11.4.6  | clause 14;   | 20 NO PARTNERSHIP OR AGENCY   |
| 11.4.7  | clause 15;   | Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for  |
| 11.4.8  | clause 16;   |   |
| 11.4.9  | clause 18;   |   |
| 11.4.10 | clause 20; and   |   |
| 11.4.11 | clause 21.   |   |
| 12      | INTELLECTUAL PROPERTY RIGHTS   |   |
|         | Any Intellectual Property Rights of the Supplier provided to the Customer (including within any Document) shall, at all times, be and remain the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and shall not be licensed, disposed of or otherwise used except in accordance with the Supplier's written instructions or authorisation.  |   |
| 13      | FORCE MAJEURE  |   |
| 13.1    | Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building |   |

any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

## 21 RIGHTS OF THIRD PARTIES

A person who is not a party to the Contract shall not have any rights under or in connection with it.

## 22 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, the law of England and Wales.

22.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter or formation (including non-contractual disputes or claims).

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