

THE CUSTOMER'S ATTENTION IS DRAWN TO CLAUSES 2.10, 6.2, 6.3, 6.7, 8.7 AND 11 WHICH SET OUT THE SUPPLIER'S LIABILITY TO THE CUSTOMER AND CLAUSES 7.7 AND 7.8 WITH REGARDS RETENTION OF TITLE IN GOODS BY THE SUPPLIER.

1. INTERPRETATION

1.1 Definitions

In these conditions the following definitions apply:

Credit Account: means a credit account with the Supplier in the name of the Customer which can be utilised by the Customer to purchase Goods and/or Services from the Supplier, such credit account being subject at all times to these Conditions, any other conditions or rules imposed by the Supplier from time to time and communicated to the Customer in writing and the Credit Limit.

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

Conditions: means the terms and conditions set out in this document as amended from time to time.

Contract: means the contract between the Supplier and the Customer for the sale and purchase of the Goods and/or Services comprising these Conditions, the Order and the Order Acknowledgment.

Credit Limit: the monthly credit limit applicable to the Credit Account of the Customer, as set, increased or reduced at the discretion of the Supplier from time to time.

Customer: means the person who purchases the Goods and/or Services from the Supplier.

Data Protection Legislation: means the UK Data Protection Legislation and any other legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which is binding in the UK and applies to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

Delivery: means delivery of the Goods to the Delivery Address or collection of the Goods from the Supplier's premises, as set out in the Order Acknowledgement (and the terms **Deliver** and **Delivered** shall be construed accordingly).

Delivery Address: means the location set out in the Order Acknowledgement where the Goods are to be Delivered or the Services are to be performed by the Supplier.

End User Customer: the third party customer to whom the Customer (a) resells Goods; or (b) sells a product in which the Customer has incorporated Goods.

Force Majeure Event: has the meaning given in clause 12.

Goods: means the goods (or any part of them) supplied or to be supplied as set out in the Order Acknowledgement.

Intellectual Property Rights: means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Onward Sale: means (a) the resale of any Goods by the Customer to an End User Customer; or (b) the sale by the Customer of a product in which the Customer has incorporated Goods.

Order: means the Customer's order for the Goods and/or Services, whether submitted orally over the telephone or in writing, via email, letter, purchase order, via the Websites or otherwise, as the case may be.

Order Acknowledgment: means a written acknowledgement sent by the Supplier to the Customer confirming acceptance of an Order.

Services: means the services supplied or to be supplied by the Supplier to the Customer as set out in the Order Acknowledgement.

Specification: means the specification of the Goods as quoted by the Supplier pursuant to a request by the Customer, including any related plans and drawings, that are explicitly agreed in writing by the Customer and the Supplier relating to the specification of such Goods.

Supplier: means Truma Limited, a private company limited by shares, registered in England and Wales with company number 03566380 with registered office at Park Lane, Dove Valley Park, Foston, Derbyshire, DE65 5BG. The Supplier can be contacted on 01283 587900 or by email to customerservices@trumauk.com or info@powrwheel.com

UK Data Protection Legislation: means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and

Electronic Communications Directive (2002/58/EC) (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Warranty Period: has the meaning set out in clause 8.2.

Websites: means www.truma.com or www.powrtouch.com

1.2 Construction

In these Conditions, the following rules apply:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or permitted assigns.
- (c) 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.
- (d) 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.
- (e) A reference to **writing** or **written** includes emails but excludes faxes.

2. ACCEPTANCE OF ORDERS

- 2.1 The prices for Goods and/or Services provided by the Supplier, as shown on the Websites or contained within a quotation issued by the Supplier, shall not constitute an offer to purchase. A quotation, where applicable, shall only be valid for a period of 30 days from the date of issue.
- 2.2 An Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.3 If the Supplier is unable to accept the Order, it will notify the Customer in writing as soon as reasonably practicable. For the avoidance of doubt, each Order and Order Acknowledgement issued shall constitute a separate Contract.
- 2.4 The issuing of data or materials or any other preliminary requests for information or negotiations shall not be deemed to constitute acceptance of an Order.
- 2.5 Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues, brochures or other marketing material in relation to the Goods and/or Services are produced 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.
- 2.6 The Customer is responsible for ensuring that the terms of the Order and any Specification submitted by the Customer are complete and accurate in all respects.
- 2.7 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.
- 2.8 These Conditions apply to all Contracts and apply to the exclusion of all other terms and conditions notified by the Customer to the Supplier. No amendment to these Conditions will be accepted by the Supplier, unless specifically agreed to in writing, and silence on the part of the Supplier shall not constitute a valid acceptance of any variations or amendments to these Conditions or to the Contract.
- 2.9 The Supplier reserves the right to refuse to accept Orders for any reason whatsoever and shall have no liability to the Customer in respect of the Supplier exercising its rights under this clause.

3. PRICES

- 3.1 Goods and/or Services comprising the Orders will be invoiced at the price as confirmed to the Customer in the Order Acknowledgement.
- 3.2 Some Orders may be subject to minimum quantities as set out from time to time by the Supplier. Where an Order is submitted and does not meet the minimum quantity requirement, the Supplier shall notify the Customer in writing giving them the option of increasing the quantity of Goods and/or Services ordered to meet the minimum requirements or to withdraw the Order.
- 3.3 The Supplier may, by giving notice to the Customer at any time up to 10 Business Days before delivery (**Increase Notice**), increase the price of the Goods and/or Services to reflect any increase in the cost of Goods and/or Services 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 delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - (c) any delay caused by any instruction of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 3.4 Where the Supplier serves an Increase Notice pursuant to clause 3.3 above and such price increase is not acceptable to the Customer, the Customer shall have the right to cancel the Delivery or performance of the Goods and/or Services (as applicable) affected by the increase in price by giving written notice to the Supplier within 5 Business Days of the date of the Increase Notice (**Objection Notice**). If an Objection Notice is not given within 5 Business Days of the date of the Increase Notice, the Customer will be deemed to have accepted the price increase and shall be charged for the Goods and/or Services accordingly.
- 3.5 All prices stated by the Supplier within the Order Acknowledgment or within a quotation issued by the Supplier are exclusive of VAT and VAT will be added at the rate applicable from time to time.

4. TERMS OF PAYMENT

- 4.1 Where the Customer has a Credit Account, all Orders placed by the Customer and accepted by the Supplier shall be deemed to be paid for using the Credit Limit on that Credit Account, save where the Customer specifically opts to pay by debit or

credit card or, with the prior written approval of the Supplier, by cheque at the time of the Order or where the Customer has insufficient Credit Limit available to pay for the full value of the Order.

4.2 Unless otherwise set out in the Order Acknowledgement or agreed in writing by the Supplier, the Customer shall pay for Goods and/or Services immediately upon an Order Acknowledgement being issued by the Supplier as follows:

- (a) where the Customer has a valid Credit Account and the Customer has sufficient Credit Limit available for the full value of the Order, the Supplier shall deduct the value of the Order from the available Credit Limit of the Customer's Account, such amounts to be invoiced in accordance with clause 5; or
- (b) where the Customer does not have a Credit Account or where the Customer has a Credit Account and either opts at the time of the Order to pay by an alternative method or has insufficient Credit Limit available for the full value of the Order, the Customer shall pay:
 - (i) by credit or debit card, such details to be submitted to the Supplier at the time of the Order; or
 - (ii) only where the Customer has the prior written approval of the Supplier, by cheque, such cheque to be sent to the Supplier by the Customer within 7 Business Days of the date of the Order Acknowledgement.

4.3 All payments made by the Customer to the Supplier pursuant to this clause 4 or clause 5 shall be in English Pounds Sterling, unless otherwise agreed by the Supplier.

4.4 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, including any amounts owed to the Supplier pursuant to clause 5, the Customer shall be liable to pay interest on the overdue amount at the rate of 8% per month above the base rate of the Bank of England from time to time in force. This clause 4.4 shall not prejudice any right that the Supplier may have to demand immediate payment of the full amount owed from the Customer. The Supplier shall, in addition to the interest set out in this clause, be entitled to recover from the Customer any costs incurred by the Supplier in relation to recovering such late payment from the Customer.

4.5 The Customer 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 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. CREDIT ACCOUNT

5.1 The Customer may, at any time, apply for a Credit Account by completing the "Request to open a credit account" form available from accounts@trumauk.com. By completing the "Request to open a credit account" form, the Customer consents to the Supplier using the Customer's details to ascertain credit scores, undertake credit checks and searches, obtain trade references and to use such details in any other way as the Supplier deems fit to satisfy the Supplier that the Customer meets the criteria for a Credit Account.

5.2 The Supplier reserves the right, at any time, at the Supplier's sole discretion and without any liability whatsoever to the Customer, to:

- (a) refuse to provide the Customer with a Credit Account for any reason whatsoever;
- (b) terminate a Customer's Credit Account for any reason whatsoever; and/or
- (c) increase or decrease the Customer's Credit Limit as the Suppliers sees fit.

5.3 Upon Delivery of the relevant Goods or the performance of the relevant Services (as applicable), the Supplier shall immediately invoice the Customer for such Goods and/or Services comprising the Order, such invoice to be paid in accordance with clause 5.5.

5.4 Invoices shall be sent to the Customer at the email address specified by the Customer in the "Request to open a credit account" form or to such other email address as is communicated to the Supplier by the Customer in writing from time to time. In the absence of an email address on the "Request to open a credit account" form, the Supplier shall instead send such invoice to the postal address communicated by the Customer to the Supplier in writing from time to time.

5.5 Unless otherwise agreed by the Supplier in writing, the Customer shall pay all invoices in full and in cleared funds within thirty (30) days of the end of the month within which the invoice was raised. Payment shall be made by electronic bank transfer to the bank account details contained on the Supplier's invoice or to such other details as may be nominated by the Supplier from time to time.

5.6 Time is of the essence in relation to the payment of invoices under this clause 5.

6. PERFORMANCE AND DELAYS

6.1 It is the Supplier's desire to attempt to accommodate the delivery requirements of its Customers. Therefore when placing an Order, the Customer should specify the approximate date upon the Goods are to be Delivered and/or Services are to be performed (as applicable) and the Supplier will use its reasonable endeavours to comply with the Customer's request.

6.2 Any dates quoted for Delivery and/or performance of the Services (as applicable) in the Order Acknowledgment are approximate only, and the date of Delivery and/or performance of the Services (as applicable) is not of the essence. The Supplier shall not be liable for any delay and/or failure in Delivery or performance of the Services (as applicable) that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate instructions for Delivery or performance (as applicable), including special requirements for the Delivery Address, or any other instructions that are relevant to the Delivery and/or performance of the Services (as applicable).

6.3 The Customer must provide the Supplier with all required technical information, data and all documentation that the Supplier reasonably requests. If Delivery and/or performance of the Services (as applicable) are delayed due to outstanding information as detailed in this clause 6, the Supplier shall not be liable.

6.4 If the Supplier suffers delay in performance due to a Force Majeure Event, the date of Delivery and/or performance of the Services shall be extended by a period of time equal to the period of the delay. The Supplier will give written notice to the Customer as soon as practicable after becoming expressly aware of any such delay.

6.5 Any item of the Goods on which Delivery is delayed as a result of any avoidable action by the Customer may be placed in to storage by the Supplier, at the Customer's risk, and the Customer shall pay all charges for storage and other incidental expenses directly incurred by Supplier as a result of the delay.

6.6 The Customer shall ensure;

- (a) accurate information is provided to the Supplier as to the Delivery Address; and
- (b) that they have suitable personnel and levels of security Delivery or performance of the Services (as applicable).

6.7 The Supplier shall have no liability in the event the Customer does not comply with clause 6.6

7. DELIVERY, TITLE AND RISK IN GOODS

- 7.1 The Supplier reserves the right to Deliver by instalments. 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.
- 7.2 The Supplier shall Deliver Goods to the Delivery Address or, where the Order Acknowledgement states that Goods will be collected by the Customer from the Supplier's premises, make Goods available for collection (as applicable). Delivery shall take place and risk in the Goods shall transfer to the Customer:
- (a) where the Supplier's carrier unloads the Goods at the Delivery Address, upon the Goods being placed on the ground at the Delivery Address; or
 - (b) where the Customer is responsible for unloading the Goods at the Delivery Address (which they shall do at their own cost), immediately upon the Goods being made available to the Customer, its agents or representatives for unloading at the Delivery Address or
 - (c) where Goods are to be collected by the Customer from the Supplier's premises, when the Goods are made available by the Supplier for collection by the Customer.
- 7.3 If the parties agree that the Goods are to be collected from the Supplier's premises then, unless otherwise agreed, the Customer shall collect the Goods within 7 Business Days from being notified that the Goods are ready for collection. If the Goods are not collected by the Customer within the specified period the Supplier may despatch the Goods to the Customer at the Customer's expense and risk and/or store the Goods at the Customer's expense and risk until despatch or collection. The Supplier and the Customer agree that the Supplier's proof of delivery shall constitute evidence of Delivery.
- 7.4 If the Customer fails to take or accept or by their own actions causes Delivery of the Goods to be delayed 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 (in the case of Goods to be collected by the Customer) be deemed to have been completed at 9am on the day on which the Supplier notified the Customer that the Goods were ready for Delivery or (in the case of Goods delivered to the Customer) be deemed to have been delivered at the date and time shown on the Supplier's proof of 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 The Customer shall check the Goods as soon as reasonably practicable following Delivery and shall notify the Supplier in writing of any incorrect items or damages to or shortages of Goods within 7 calendar days of the date of Delivery. Where the Customer fails to give notice pursuant to this clause 7.5, they shall be deemed to have inspected and accepted the Delivery.
- 7.6 Notwithstanding Delivery, title to the Goods shall not pass to the Customer until the earlier of:
- (a) the Supplier receiving payment in full (in cash or cleared funds) for the Goods and any other goods and/or services that the Supplier has supplied to the Customer, in which case title to the Goods shall pass at the time of payment of all such sums; or
 - (b) the Customer reselling the Goods in accordance with its rights at clause 7.7.
- 7.7 Subject to clause 7.8, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time, it does so as principal and not as the Supplier's agent, in which case title to the Goods shall pass to the Customer immediately before the time at which resale by the Customer occurs.
- 7.8 If, at any time prior to title in the Goods passing to the Customer:
- (a) the Customer 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 being notified in writing to do so;
 - (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), 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;
 - (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
- then, without limiting any other right or remedy the Supplier may have:
- (e) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - (f) the Supplier may at any time:
 - (i) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
 - (ii) 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.
- 7.9 Unless otherwise agreed between the Supplier and the Customer in writing, the costs of delivery and packaging for Goods shall be as set out in the Order Acknowledgment.

8. WARRANTY FOR GOODS

- 8.1 Subject to the Supplier having received payment in full from the Customer for the relevant Goods, and subject to clause 8.6 below, the Supplier warrants that for the duration of the relevant Warranty Period (which is set out opposite the relevant category of Goods in clause 8.2 below), the Goods shall:
- (a) conform in all material respects with their description and, where relevant, any applicable Specification;
 - (b) be free from material defects in design, material and workmanship;
 - (c) be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
 - (d) be fit for the purposes held out by the Supplier;
- such warranty to be relied upon by the relevant persons set out opposite the respective categories of Goods in clause 8.3.
- 8.2 The warranty period applicable to clause 8.1 for the various categories of Goods sold by the Supplier (each a "Warranty Period") shall be as follows:

- (a) any Powrtouch branded part or spare – 1 year from the date of Onward Sale;
 - (b) any Truma branded part or spare (excluding those falling within clause 8.3(c) below) – 2 years from the date of Onward Sale;
 - (c) any Truma branded part or spare which is installed by the Customer during the course of manufacture into a brand new Lunar, Swift, Coachman or Baily caravan or motorhome – 3 years from the date of Onward Sale; and
 - (d) any Powrtouch or Truma branded caravan mover – 5 years from the date of Onward Sale.
- 8.3 The warranty provided in clause 8.1 can only be relied upon and enforced by the following person(s):
- (a) any Goods which are Powrtouch branded – the End User Customer;
 - (b) any Goods which are Truma branded – the Customer only.
- 8.4 Where the End User Customer purchases Powrtouch branded Goods or a product incorporating Powrtouch branded Goods from the Customer and the End User Customer is therefore entitled to rely upon and enforce the warranty provided in clause 8.1 pursuant to clause 8.3, the Customer undertakes to the Supplier that it shall ensure that the End User Customer is made aware of the terms and conditions applicable to the relevant warranty as set out in this clause 8.
- 8.5 Subject to clauses 8.1 to 8.3 above, if:
- (a) the Customer or the End User Customer (as applicable) gives notice in writing to the Supplier within 7 Business Days of the discovery that some or all of the Goods do not comply with the warranty set out in clause 8.1;
 - (b) the Supplier is given a reasonable opportunity to examine such Goods; and
 - (c) the Customer or the End User Customer (as applicable) returns such Goods to the Supplier's place of business at the Customer or End User Customer's cost (if asked to do so by the Supplier),
- the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full. Any repair, maintenance or replacement work undertaken by the Supplier that is not covered by the warranty contained in this clause 8 shall be invoiced to the Customer or End User Customer (as applicable) at the price quoted to the Customer or End User Customer (as applicable) by the Supplier prior to the necessary work being undertaken, such invoices being due and payable in accordance with the provisions of clause 5.5 above.
- 8.6 The Supplier shall not be liable for the relevant Good's failure to comply with the warranty set out in clause 8.1 in any of the following events:
- (a) the Customer or End User Customer (as applicable) makes any further use of such Goods after giving notice in accordance with clause 8.5;
 - (b) the defect arises because the Customer or End User Customer (as applicable) failed to follow the Supplier's oral or written instructions as to storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade;
 - (c) the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
 - (d) the Customer or End User Customer (as applicable) alters or repairs such Goods without the written consent of the Supplier;
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, abnormal storage or working conditions or as a result of the Goods being dismantled by anyone other than the Supplier;
 - (f) the Goods differ from the Specification as a result of changes made to them so they comply with statutory or regulatory requirements;
 - (g) the Goods are used beyond their Specification;
 - (h) the Goods no longer comply with the warranty set out in clause 8.1 as a result of any mechanical, chemical, electrolytic or other damage caused by any means not linked to a defect in the Goods; or
 - (i) the defect in the Goods is of a cosmetic nature only, including but not limited to paint damage caused by use of the Goods, and the defect does not affect the fitness for the purpose held out by the Supplier under clause 8.1(d).
 - (k) the goods are used for a purpose other than that intended, or the goods are used for a commercial purpose.
- 8.7 Except as expressly provided in this clause 8, the Supplier shall have no liability to the Customer or End User Customer (as applicable) in respect of the Goods' failure to comply with the warranty set out in clause 8.1.
- 8.8 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.
- 8.9 Where the End User Customer purchases Powrtouch branded Goods or a product incorporating Powrtouch branded Goods from the Customer and the End User Customer then disposes of such Powrtouch branded Goods or product incorporating Powrtouch branded Goods to a third party during the applicable Warranty Period, the warranty provided in clause 8.1 shall only be assignable to the third party for the balance of the Warranty Period in circumstances where the End User Customer or relevant third party contacts the Supplier within 30 Business Days of the disposal by the End User Customer to the third party and the Customer or the End User Customer provides the necessary information required by the Supplier to assign the benefit of the warranty to the third party and also the required assignment fee, as set by the Supplier from time to time, is paid to the Supplier by the End User Customer or relevant third party.
- 8.10 The Supplier may, in addition to the rights set out in this clause 8, be afforded enhanced warranty terms by the Supplier in relation to certain Goods, such terms being set out in a specific written agreement between the Supplier and the Customer.

9. CANCELLATION

- 9.1 The Customer is not entitled to cancel any Contract without the express written consent of the Supplier and any such cancellation will be on such terms as the Supplier considers reasonable.
- 9.2 If as a result of a Force Majeure Event the Supplier is unable to deliver part or all of an Order the Supplier may cancel the Order or balance by giving notice to the Customer as soon as is reasonably practicable.

10. INTELLECTUAL PROPERTY

- 10.1 As between the Customer and the Supplier, all Intellectual Property Rights arising out of or in connection with the Goods and/or Services shall belong to the Supplier absolutely.
- 10.2 The Customer shall keep the Supplier indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier as a result of or in connection with any claim brought against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the provision of the Goods or performance of

the Services by the Supplier as a result of the Supplier following any drawing, design, specification or any other document or material supplied by the Customer.

11. LIMITATION OF LIABILITY

11.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

11.2 Subject to clause 11.1, the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for and loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information, loss of or damage to goodwill and indirect or consequential loss.

11.3 Save in respect of those heads of loss excluded in clause 11.2, the Supplier's total liability to the Customer in respect of:

- (a) damage to property caused by the negligence of the Supplier's employees, agents or representatives in connection with the Contract shall be limited to £1,000,000 for any one event or series of connected events; and
- (b) all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to 100% of the value of Goods and/or Services provided under the Contract under which the liability arises.

12. FORCE MAJEURE

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**).

13. ASSIGNMENT AND SUBCONTRACTING

13.1 The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

13.2 The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

14. VARIATION

Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Supplier.

15. SEVERANCE

15.1 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.

15.2 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.

16. NOTICES

16.1 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 16 and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier or email.

16.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.1; if sent by pre-paid first class post or recorded delivery, at 09:00 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 email, one Business Day after transmission.

16.3 The provisions of this clause 16 shall not apply to the service of any proceedings or other documents in any legal action.

17. WAIVER

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. 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 preclude or restrict the further exercise of that or any other right or remedy. 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.

18. THIRD PARTY RIGHTS

Unless otherwise expressly stated or agreed between the Supplier and the Customer in writing, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

19. DATA PROTECTION

- 19.1 The Supplier and the Customer will comply with all applicable requirements of the Data Protection Legislation, including maintaining their respective internal Data Protection policies, including but not limited to an appropriate privacy policy, a copy of such policy for the Supplier being available on the Websites. This clause 19 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 19.2 The Supplier and the Customer acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.
- 19.3 Without prejudice to the generality of clause 19.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.
- 19.4 Without prejudice to the generality of clause 19.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:
- (a) process that personal data only on the documented written instructions of the Customer unless the Supplier is required by the Data Protection Legislation to otherwise process that personal data. Where the Supplier is relying on the Data Protection Legislation as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Data Protection Legislation unless the Data Protection Legislation prohibits the Supplier from so notifying the Customer;
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - (d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer and/or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
 - (e) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the Customer without undue delay on becoming aware of a personal data breach;
 - (g) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless required by the Data Protection Legislation or any other applicable law to store the personal data; and
 - (h) maintain complete and accurate records and information to demonstrate the Supplier's compliance with this clause 19 and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

20. CONFIDENTIALITY

- 20.1 Each of the Supplier and the Customer undertakes to the other that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the Supplier or the Customer (as applicable), except as permitted by clause 20.2.
- 20.2 The Supplier and the Customer may disclose the other's confidential information:
- (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out their respective obligations under the Contract. Each of the Supplier and the Customer shall ensure that their respective employees, officers, representatives, subcontractors or advisers to whom the other's confidential information is disclosed comply with this clause 20; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 20.3 Neither the Supplier nor the Customer shall use the other's confidential information for any purpose other than to perform its obligations under the Contract.

21. 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 dispute 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.