

## PNEUMATIC COMPONENTS LIMITED

### TERMS AND CONDITIONS OF SALE

#### NOVEMBER 2014 VERSION

**These terms and conditions are the terms upon which we will supply our products and services to you. Please read them carefully, paying particular attention to the provisions of condition 12.**

#### 1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

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

**Buyer:** the person or firm who purchases the Goods and/or Services from the Seller.

**Commencement Date:** has the meaning set out in condition 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with condition 15.8.

**Contract:** the contract between the Seller and the Buyer for the supply of Goods and/or Services comprising the Order and these Conditions.

**Delivery Location:** has the meaning set out in condition 4.1.

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

**Group:** in relation to a company, that company, each and any subsidiary or holding company of that company and each and any subsidiary of a holding company of that company and "subsidiary" and "holding company" shall have the meaning given to them in section 1159 of the Companies Act 2006.

**Goods:** the air line products and tyre inflation equipment (or any part of them) to be made available to the Buyer by the Seller as set out in the Order.

**Incoterms:** means the Incoterms® 2010 and any amendments, re-enactments or updates to such terms in place from time to time;

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in goodwill or to sue for passing off, 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 Buyer's order for the supply of Goods and/or Services.

**Seller:** Pneumatic Components Limited registered in England and Wales with company number 00341813.

**Services:** the product testing services (if any) supplied by the Seller to the Buyer as set out in the Order.

1.2 In these Conditions a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

#### 2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Buyer to purchase Goods and/or Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Seller issues written acceptance (by email or otherwise) of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract.

2.4 Any samples, drawings, descriptive matter or advertising issued by the Seller and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Seller's catalogues or brochures or on the Seller's website are issued or published for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force.

- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. If the Contract is made on the basis of any Incoterms or similar terms, these Conditions shall prevail if there is any conflict between the terms.
- 2.6 Any quotation given by the Seller shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.
- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

### 3. **GOODS**

- 3.1 The Goods are described in the Seller's sales literature and on the Seller's website.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a specification produced by the Buyer, the Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Seller's use of the specification for the Goods. This condition 3.2 shall survive termination of the Contract.
- 3.3 The Seller reserves the right to amend the specification for the Goods if required by any applicable statutory or regulatory requirements.

### 4. **DELIVERY OF GOODS**

- 4.1 Delivery of the Goods will take place as follows:
  - 4.1.1 Delivery in the UK: Where Goods are to be delivered to a location in the UK 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.
  - 4.1.2 Delivery outside the UK: Where the Goods are required to be delivered to a location outside of the UK the Seller shall notify the Buyer when the Goods are ready for collection and the Buyer shall make appropriate arrangements for the Goods to be collected from the Seller's premises as specified in the Order (**Delivery Location**) within three Business Days of the Seller notifying the Buyer that the Goods are ready, or if agreed otherwise by the Seller and the Buyer, at such other location as may be specified in the Order (Delivery Location). For the avoidance of doubt, any arrangements for delivery of the Goods and the responsibilities of the parties in respect thereof, shall be clarified by reference to the relevant Incoterm as specified in the Order or on the relevant Order acknowledgement.
- 4.2 Delivery of the Goods: where the goods are to be delivered by the Seller to a location based in the United Kingdom delivery shall be completed on the Goods' arrival at the Delivery Location. Where the Goods are to be collected by the Buyer, delivery of the Goods shall be completed when the Goods are loaded into the collection bay at the Delivery Location. Where the Goods are to be delivered by the Seller to a location based outside the UK, as agreed by the parties, delivery shall take place on the Good's arrival at the Delivery Location.
- 4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. 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 the Goods.
- 4.4 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 market available, 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 for the Goods or any relevant instruction related to the supply of the Goods.
- 4.5 If the Buyer fails to accept delivery of the Goods or (unless agreed otherwise by the parties) to collect the Goods within three Business Days of the Seller notifying the Buyer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Seller's failure to comply with its obligations under the Contract in respect of the Goods:
  - 4.5.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the fourth Business Day following the day on which the Seller notified the Buyer that the Goods were ready; and

- 4.5.2 the Seller shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).
- 4.6 If ten Business Days after the Seller notified the Buyer that the Goods were ready for collection or delivery and the Buyer has not accepted or taken delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Buyer for any shortfall below the price of the Goods.
- 4.7 The Buyer shall not be entitled to reject the Goods if the Seller delivers up to and including 5 per cent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Buyer that the wrong quantity of Goods was delivered.
- 4.8 The Seller 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 Buyer to cancel any other instalment.

## 5. **TITLE AND RISK**

- 5.1 The risk in the Goods shall pass to the Buyer on completion of delivery at the Delivery Location except where the Contract specifies a particular Incoterm, in which case risk shall pass to the Buyer in accordance with the relevant Incoterm. If delivery is to be made in accordance with the Incoterms, the Incoterm which is relevant to the Contract shall be specified in the Order or on the relevant Order acknowledgement.
- 5.2 Title to the Goods shall not pass to the Buyer until the Seller has received payment in full (in cash or cleared funds) for:
  - 5.2.1 the Goods; and
  - 5.2.2 any other goods that the Seller has supplied to the Buyer in respect of which payment has become due.
- 5.3 Until title to the Goods has passed to the Buyer, the Buyer shall:
  - 5.3.1 hold the Goods on a fiduciary basis as the Seller's bailee;
  - 5.3.2 store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property;
  - 5.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 5.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Seller's behalf from the date of delivery;
  - 5.3.5 notify the Seller immediately if it becomes subject to any of the events listed in condition 13.1.2; and
  - 5.3.6 give the Seller such information relating to the Goods as the Seller may require from time to time,but the Buyer may resell or use the Goods in the ordinary course of its business.
- 5.4 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in condition 13.1.2, or the Seller reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Seller may have, the Seller may at any time require the Buyer to deliver up the Goods and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.
- 5.5 The Buyer shall keep the Goods fully insured to their full replacement value against all risks prudently insured against and keep the Goods in good repair and condition between risk and property passing to the Buyer. The Buyer shall produce evidence of such insurance upon request by the Seller. If the Buyer fails to insure the Goods as required, the Seller may do so on behalf of the Buyer, who shall reimburse the Seller on demand. Until the full price has been paid the Buyer shall hold on trust for the Seller the policy and proceeds of insurance, and shall on request execute a formal assignment in favour of the Seller.
- 5.6 When arranging carriage and/or insurance of the Goods in transit, the Seller shall be deemed to be acting solely as agent of the Buyer and sections 32(2) and (3) of the Sales of Goods Act 1979 shall not apply.

## 6. **QUALITY OF GOODS**

- 6.1 The Seller warrants that on delivery and for a period of 12 months from the date of delivery or until the Goods are sold on to a third party end user (whichever is sooner) (**Warranty Period**), the Goods shall:
  - 6.1.1 conform in all material respects with their description;
  - 6.1.2 be free from material defects in design, material and workmanship; and

- 6.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 6.2 Subject to condition 6.3, if:
  - 6.2.1 the Buyer gives notice in writing during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in condition 6.1;
  - 6.2.2 the Seller is given a reasonable opportunity of examining such Goods; and
  - 6.2.3 the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost, the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 6.3 The Seller shall not be liable for the Goods' failure to comply with the warranty in condition 6.1 if:
  - 6.3.1 the Buyer makes any further use of such Goods after giving a notice in accordance with condition 6.2;
  - 6.3.2 the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
  - 6.3.3 the defect arises as a result of the Seller following any drawing, design or specification for the Goods supplied by the Buyer;
  - 6.3.4 the Buyer alters or repairs such Goods without the written consent of the Seller;
  - 6.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
  - 6.3.6 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards
- 6.4 Where Goods are returned to the Seller and such Goods are found not to be in breach of the warranty given in condition 6.1, the Seller shall have the right to charge the Buyer a handling fee in relation to the return of such Goods.
- 6.5 The Buyer shall not return the Goods to the Seller without notifying the Seller in writing in advance that the Goods are going to be returned.
- 6.6 Except as provided in this condition 6, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in condition 6.1.
- 6.7 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Seller under condition 6.2.

## 7. **SUPPLY OF SERVICES**

- 7.1 The Seller shall provide the Services (if applicable) to the Buyer in accordance with the Order.
- 7.2 The Seller shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 The Seller shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Seller shall notify the Buyer in any such event.
- 7.4 The Seller warrants to the Buyer that the Services will be provided using reasonable care and skill.

## 8. **BUYER'S OBLIGATIONS**

- 8.1 The Buyer shall:
  - 8.1.1 ensure that the terms of the Order and (if submitted by the Buyer) any specification for the Goods, are complete and accurate;
  - 8.1.2 co-operate with the Seller in all matters relating to the Services;
  - 8.1.3 provide the Seller, its employees, agents, consultants and subcontractors, with access to the Buyer's premises, office accommodation and other facilities as reasonably required by the Seller to provide the Services;
  - 8.1.4 provide the Seller with such information and materials as the Seller may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- 8.2 If the Seller's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation (**Buyer Default**):
  - 8.2.1 the Seller shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Buyer remedies the Buyer Default, and to rely on the Buyer Default to relieve it from the performance of any of its obligations to the extent the Buyer Default prevents or delays the Seller's performance of any of its obligations;

- 8.2.2 the Seller shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from the Seller's failure or delay to perform any of its obligations as set out in this condition 8.2; and
- 8.2.3 the Buyer shall reimburse the Seller on written demand for any costs or losses sustained or incurred by the Seller arising directly or indirectly from the Buyer Default.
- 8.3 The Buyer shall comply, and procure that its employees and agents comply strictly with all instructions, warnings, data sheets and other materials supplied by the Seller with or in connection with the Goods and/or Services and if supplying the Goods to a third party, ensure that the Goods are accompanied by the same.
- 8.4 In accordance with Waste Electrical and Electronic Equipment (WEEE) 2006, the Seller does not offer a take-back system for WEEE recovery and disposal and in doing so discharges their WEEE obligations. It is therefore understood, that any Goods sold with an Electrical and Electronic element, the obligation to dispose of said Goods rests with the Buyer. The Buyer will ensure that at End of life, said Goods are treated, recycled and disposed of in an environmentally sound way.

9. **CHARGES AND PAYMENT**

- 9.1 The price for Goods shall be the price set out in the Order or, if no price is quoted, the price set out in the Seller's published price list as at the date of delivery. The price of the Goods is exclusive of all costs and charges of taxation, packaging, insurance and transport of the Goods, which shall be paid by the Buyer when it pays for the Goods.
- 9.2 The charges for Services shall be on a time and materials basis:
  - 9.2.1 the charges shall be calculated in accordance with the Seller's standard daily fee rates and shall be detailed in the Order;
  - 9.2.2 the Seller shall be entitled to charge the Buyer for any expenses reasonably incurred by the individuals whom the Seller engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Seller for the performance of the Services, and for the cost of any materials.
- 9.3 The Seller reserves the right to:
  - 9.3.1 increase the price of the Goods, by giving notice to the Buyer at any time before delivery, to reflect any increase in the cost of the Goods to the Seller that is due to:
    - 9.3.1.1 any factor beyond the control of the Seller (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
    - 9.3.1.2 any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or the specification for the Goods; or
    - 9.3.1.3 any delay caused by any instructions of the Buyer in respect of the Goods or failure of the Buyer to give the Seller adequate or accurate information or instructions in respect of the Goods.
- 9.4 In respect of Goods, the Seller shall invoice the Buyer on or at any time after despatch of the Goods. In respect of Services, the Seller shall invoice the Buyer on completion of performance of the Services.
- 9.5 The Buyer shall pay each invoice submitted by the Seller:
  - 9.5.1 within 30 days of the date of the invoice or as otherwise agreed with the Seller; and
  - 9.5.2 in full and in cleared funds in the currency specified by and to a bank account nominated in writing by the Seller, and
 time for payment shall be of the essence of the Contract.
- 9.6 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Seller to the Buyer, the Buyer shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.7 Without limiting any other right or remedy of the Seller, if the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment (**Due Date**), the Seller shall have the right to charge interest on the overdue amount at the rate of 4 per cent per annum above the then current Royal Bank of Scotland plc's base lending rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.

9.8 The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Seller in order to justify withholding payment of any such amount in whole or in part. The Seller may, without limiting its other rights or remedies, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

10. **INTELLECTUAL PROPERTY RIGHTS**

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Seller.

10.2 The Buyer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Buyer's use of any such Intellectual Property Rights is conditional on the Seller obtaining a written licence from the relevant licensor on such terms as will entitle the Seller to license such rights to the Buyer.

10.3 All Intellectual Property Rights in the Goods and any literature provided to the Seller in relation to the Goods shall be owned by the Seller and shall be treated as confidential for the purpose of the Contract.

10.4 The Buyer shall have no rights to any property owned or licensed by the Seller except that the Buyer may, subject to obtaining the prior written consent of the Seller, resell the Goods under trade marks applied by the Seller. If such consent is granted the Buyer will at all times comply with the instructions of the Seller in relation to use of the trade marks including (without limitation) that the Buyer will not obscure or obliterate any trade mark or instruction or warning applied to the Goods by the Seller.

11. **CONFIDENTIALITY**

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This condition 11 shall survive termination of the Contract.

12. **LIMITATION OF LIABILITY: THE BUYER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION**

12.1 Nothing in these Conditions shall limit or exclude the Seller's liability for:

- 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 12.1.2 fraud or fraudulent misrepresentation;
- 12.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- 12.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- 12.1.5 defective products under the Consumer Protection Act 1987.

12.2 Subject to condition 12.1:

- 12.2.1 the Seller shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 12.2.2 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, or otherwise, shall in no circumstances exceed the value of the Contract.

12.3 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.

12.4 This condition 12 shall survive termination of the Contract.

13. **TERMINATION**

13.1 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if:

- 13.1.1 the Buyer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 28 days after receipt of notice in writing of the breach;
- 13.1.2 the Buyer is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123

of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; the Buyer enters into any compromise or arrangement with its creditors; a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer; the Buyer (being an individual) is the subject of a bankruptcy petition or order; a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; an application is made to court, or an order is made, for the appointment of an administrator or if an administrator is appointed over the Buyer; a floating charge holder over the assets of the Buyer (being a company) has become entitled to appoint or has appointed an administrative receiver; a person becomes entitled to appoint a receiver over the assets of the Buyer or a receiver is appointed over the assets of the Buyer;

- 13.1.3 any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 13.1.2;
  - 13.1.4 the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
  - 13.1.5 the Buyer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation;
  - 13.1.6 the Buyer undergoes a change of control (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 13.2 Without limiting its other rights or remedies, the Seller may terminate the Contract:
- 13.2.1 by giving the Buyer 1 months' written notice;
  - 13.2.2 with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under this Contract on the due date for payment.
- 13.3 Without limiting its other rights or remedies, the Seller shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Buyer and the Seller if:
- 13.3.1 the Buyer fails to make pay any amount due under this Contract on the due date for payment; or
  - 13.3.2 the Buyer becomes subject to any of the events listed in condition 13.1.2, or the Seller reasonably believes that the Buyer is about to become subject to any of them.

#### 14. **CONSEQUENCES OF TERMINATION**

On termination of the Contract for any reason:

- 14.1 the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately on receipt;
- 14.2 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 14.3 conditions which expressly or by implication have effect after termination shall continue in full force and effect.

#### 15. **GENERAL**

- 15.1 Force majeure:
  - 15.1.1 The Seller shall not be liable to the Buyer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
  - 15.1.2 If the Force Majeure Event prevents the Seller from providing any of the Services and/or Goods for more than 4 weeks, the Seller shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Buyer.
- 15.2 Assignment and subcontracting:
  - 15.2.1 The Seller may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

- 15.2.2 The Buyer shall not, without the prior written consent of the Seller, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 15.3 Notices:
- 15.3.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- 15.3.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- 15.3.3 This condition 15.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this condition, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.
- 15.4 Waiver and cumulative remedies:
- 15.4.1 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 15.4.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.
- 15.5 Severance: If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 15.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 15.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 15.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Seller.
- 15.9 Governing law and jurisdiction:
- 15.9.1 This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.
- 15.9.2 The Uniform Laws on International Sales Act 1967 and the United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Contract.

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