

JAMES AND TAYLOR LIMITED

CONDITIONS OF SUPPLY



1. DEFINITIONS AND INTERPRETATION:

1.1 The following terms as used herein shall have the meaning as stated:

Combined Goods: any Goods which have, following delivery to the Customer, been joined or connected in any way to other goods or materials in such a way that the Goods are nevertheless readily identifiable and removable;

Company: James & Taylor Limited;

Conditions: these conditions of supply;

Confidential Information: any information disclosed by one (the disclosing party) to another (the receiving party) if the disclosing party has notified the receiving party that the information is confidential or the information could reasonably be supposed to be confidential;

Contract: any contract between the Company and the Customer for the supply of any Goods and/or Services, incorporating these Conditions;

Customer: any person, firm, company or other organisation who is the addressee of the Company's quotation or acceptance of order issued by the Company and shall include any successor-in-title of the Customer and any company or entity arising (wholly or partly) by way of any merger, amalgamation, reorganisation or acquisition of the Customer;

Goods: any goods or materials agreed in the Contract to be supplied by the Company to the Customer (including any part or parts of them);

Incorporated Goods: any Goods which have been incorporated into other goods or materials in such a way that the Goods are not readily identifiable and removable;

Input Material: any documents, files, plans, drawings, designs, content, text, images, logos, photographs or other materials, and any specification, instructions, data or other information provided by the Customer to the Company relating to the Goods and/or Services;

Intellectual Property Rights: any design rights, utility models, patents, inventions, logos, business names, trademarks, domain names, copyright, moral rights, rights in databases, source codes, reports, drawings, specifications, know how, trade secrets, rights in software, rights in the nature of unfair competition and the right to sue for passing off and any other equivalent or similar rights to any of the foregoing in any jurisdiction, whether registered or unregistered;

Output Material: any documents, files, plans, drawings, designs, content, text, images, logos, photographs or other materials, and any specification, data or other information provided by the Company to the Customer relating to the Goods and/or Services;

Services: any services agreed in the Contract to be performed by the Company for the Customer (including any part or parts of them) including any design services to be undertaken in relation to the Goods;

Site: the premises at which the delivery of any Goods shall take place, including the Customer's place of business;

Supplies: the Goods and/or the Services, depending on the context;

Third Party Agreement: has the meaning given to it in clause 10.5.

1.2 A reference to a clause is to a clause of these Conditions. Clause headings shall not affect the interpretation of these Conditions.

1.3 Any reference to "**parties**" means the parties to the Contract and "**party**" shall be construed accordingly.

1.4 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

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 or following those terms.

1.6 Words in the singular include the plural and in the plural include the singular.

2. APPLICATION OF CONDITIONS AND DESCRIPTION OF GOODS AND SERVICES:

2.1 All quotations are made and all orders are accepted by the Company subject only to these Conditions, which shall prevail notwithstanding any other terms and conditions which the Customer shall bring to the Company's notice, (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document). These Conditions shall be incorporated into the Contract to the exclusion of all other terms and conditions. No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract. Any representations about any Goods and/or Services shall have no effect unless expressly agreed in writing and signed by an authorised signatory of the Company.

2.2 Any quotation is given on the basis that no Contract shall come into existence until the Company accepts the Customer's order in accordance with the provisions of clause 2.3. The Company shall be under no obligation to accept any order. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

2.3 The placing of an order following any quotation or other indication of price and delivery shall not be binding on the Company unless and until accepted by the Company in writing.

2.4 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of order, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

2.5 The Company has no obligation to accept any variation to the Contract requested by the Customer and no such request shall be deemed to be accepted in the absence of the Company's written agreement to the variation.

2.6 The Customer shall ensure that the terms of its order are complete and accurate and contain a description of the goods to be supplied, quantities and prices. Quantities shall be considered to be firm, even if denoted as "approximate" or "provisional".

- 2.7 No order of the Customer which has been accepted by the Company pursuant to clause 2.3 may be cancelled, varied, altered or deferred by the Customer, except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation, variation, alteration or deferment as aforesaid.
- 2.8 The quantity and description of the Goods and/or Services shall be as set out in the Company's acceptance of the Customer's order issued in accordance with clause 2.3.
- 2.9 All samples, descriptive matter, technical data, specifications and advertising issued by the Company and any descriptions, illustrations, drawings, photographs or displays (including those relating to colours, materials, finishes, weights, sizes and dimensions), published in the Company's catalogues or brochures or on the Company's website are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described. They shall not form part of the Contract (unless expressly stipulated otherwise in the Contract) and this is not a sale by sample.
- 2.10 The Customer undertakes that its employees and customers shall comply in full with the instructions and recommendations provided by the Company and that the Customer will comply with all other instructions given in connection with the use of the Goods.
- 2.11 The Goods are designed to be used without danger to health and safety where correctly used in accordance with the relevant National Standard, the rating for which the Goods were designed and accepted good practice. If the Customer intends to use the Goods under unusual conditions (especially if special risks to health and safety are posed), it shall be the sole responsibility of the Customer to ensure the safe use of the Goods in such circumstances.

3. OBLIGATIONS OF THE CUSTOMER:

- 3.1 The Company reserves the right to attend the Site at any time following delivery of the Goods to the Site and in these circumstances, the Customer shall:
- inform the Company of all health and safety rules and regulations that apply at the Site and take all steps to ensure the health and safety of the personnel of the Company whilst they are in attendance at the Site; and
 - provide the Company with all information, co-operation and support that may be required in connection with the Company's attendance at the Site.
- 3.2 Where the Company has agreed to undertake any design services under the Contract, design drawings will be sent to the Customer for checking; the Customer will confirm any amendments or comments in writing, or by "marking up" the Company's drawings and returning them to the Company. A final copy of the design will then be sent to the Customer for sign-off. The Company will require final approval of its design, prior to manufacture commencing. Should the approval process be delayed, it may result in delays to the manufacturing programme.
- 3.3 The Company shall not be obliged to make any further changes requested by the Customer following sign-off as aforesaid, but if the Company does agree to make any such further changes, the Customer shall be responsible for all corresponding additional costs, charges and expenses.

4. PRICE:

- 4.1 Prices for the Supplies, howsoever given, are based on conditions ruling on the date of their giving and are subject to change. The effective price for the Supplies shall be the price confirmed by the Company in its acceptance of the Customer's order.
- 4.2 The Company reserves the right, by giving notice to the Customer, to increase the price of the Supplies to reflect any increase in any cost to the Company which is due to any factor beyond the control of the Company, such as any foreign exchange fluctuation, currency regulation, alteration of duties, any increase in the costs of labour, materials or other costs of production, any change in delivery or performance dates, quantities or specifications for the Supplies which are requested by the Customer, any adverse Site conditions, any failure of the Customer to comply with any of its obligations hereunder, any delay caused by the Customer, or any failure of the Customer to give the Company adequate, accurate or complete information or instructions.
- 4.3 Unless otherwise stated, the price quoted will be exclusive of Value Added Tax which will be charged at the rate which is applicable at the date of dispatch of the Goods or commencement of performance of the Services.
- 4.4 Unless otherwise agreed in writing between the Customer and the Company, all prices for the supply of Goods include for delivery to site on a full load basis. The Company reserves the right to charge for smaller consignments, or where delivery restrictions require a specialist delivery vehicle.
- 4.5 Any waiver or reduction of any price will only be applicable if agreed by the Company in writing.

5. DELIVERY AND PERFORMANCE:

- 5.1 Any dates specified by the Company for delivery of the Goods and/or performance of the Services are intended to be an estimate and time for delivery or performance shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time. Should expedited delivery be agreed, the Company reserves the right to levy an extra delivery charge.
- 5.2 Without limiting the generality of clause 5.1, the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods and/or performance of the Services (even if caused by the Company's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 180 days.
- 5.3 The Company may deliver the Goods in separate consignments and perform the Services in separate portions. Each separate instalment or design portion shall be invoiced and paid for in accordance with the provisions of the Contract.
- 5.4 Unless otherwise agreed in writing by the Company, the delivery of the Goods shall take place at the address nominated by the Customer for delivery and the performance of the Services shall take place at the Company's place of business.
- 5.5 The Customer shall be responsible for providing the Company with unobstructed access to and egress from the Site on the delivery date and for ensuring that any required access and parking is arranged and authorised prior to the delivery date. The Customer is to provide a working area and access road at the Site. Such areas must:
- be levelled and prepared prior to the delivery of the Goods and so as to enable the Goods to be properly and safely stacked;

- (b) be free from obstructions, including any overhead obstructions; and
 - (c) contain sufficient and adequate hard standing to support the Company's delivery vehicles.
- 5.6 If so stipulated in the Company's acceptance of order, the Customer shall provide at the Site and at its expense adequate and appropriate equipment and manual labour for unloading and reloading the Goods.
- 5.7 In addition to the Customer's obligations under clauses 5.5 and 5.6, the Customer shall, at its sole cost:
- (a) obtain and maintain all statutory and non-statutory consents which are required for the deployment and use of the Goods at the Site; and
 - (b) effect and maintain appropriate insurance at the Site on an all risks basis and in an adequate amount.
- 5.8 If for any reason the Customer fails to accept a delivery vehicle, or the Company is unable to deliver the Goods because the Customer has not provided appropriate instructions, documents, licences or authorisations, or because the Site is not fully accessible or is not properly prepared, or is in any way obstructed or otherwise unsuitable, the Company will charge the Customer an abortive delivery charge. The Company may store the Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including storage and insurance).
- 5.9 The quantity of any consignment of Goods as recorded by the Company on despatch from either the Company's place of business or from any other location, shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 5.10 If the Customer is unable or unwilling to take delivery of the Goods, once they are available for despatch, the Company reserves the right to invoice the Customer in full for either the Goods and/or the design costs, and the Customer shall be liable for all related costs or expenses for the ongoing storage of these materials until delivery can be made.

6. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY RIGHTS:

- 6.1 The Customer and the Company agree that in the course of the Company providing Goods and/or Services to the Customer, the parties may disclose to each other certain Confidential Information. The Customer and the Company agree that each party will maintain the Confidential Information's confidentiality and not disseminate it to any third party without the disclosing party's prior written consent, save that this obligation shall not apply to any Confidential Information that either party has a duty (whether legal or otherwise) to communicate or that is in the public domain or is already in the receiving party's possession through no fault of the receiving party. The Customer shall not use any Confidential Information for any purpose other than to carry out the Customer's obligations to the Company.
- 6.2 The Customer grants the Company permission to use all Input Material in any manner in which the Company deems fit for the purposes of providing the Supplies. The Customer warrants that all Input Material is accurate and complete and belongs to or is licensed to the Customer and that all use made thereof and work done in accordance with the Customer's instructions shall not infringe any Intellectual Property Rights of any third party. The Customer shall hold the Company harmless and shall fully and promptly indemnify the Company against all liabilities, damages, costs, charges and expenses which the Company may incur as a result of:
- (a) any defect, deficiency, error, inaccuracy or omission in or related to any Goods and/or Services resulting directly or indirectly from any defect, deficiency, error, inaccuracy or omission in or related to any Input Material; and
 - (b) any use made of any Input Material or any work done as aforesaid which infringes any third party Intellectual Property Rights.
- 6.3 All Intellectual Property Rights in relation to the Goods, the Services and the Output Material shall, as between the Company and the Customer, vest in and belong solely and exclusively to the Company. The Customer is responsible for correcting or amending any defects, deficiencies, errors and omissions in any Output Material within any time period or in accordance with any requirements reasonably stipulated by the Company and no copying, duplication, dissemination or use of any Output Material otherwise than in accordance with what has been agreed under the Contract shall be permitted without the Company's prior written authorisation. The Customer shall hold the Company harmless and shall fully and promptly indemnify the Company against all liabilities, damages, costs, charges and expenses which the Company may incur as a result of:
- (a) any defect, deficiency, error, inaccuracy or omission in or related to any Goods and/or Services resulting directly or indirectly from any defect, deficiency, error, inaccuracy or omission in or related to any Output Material which has not been corrected or amended by the Customer within any time period or in accordance with any requirements reasonably stipulated by the Company; and
 - (b) any unauthorised copying, duplication, dissemination or use of any Output Material by the Customer.
- 6.4 The Company makes no representation or warranty that the use of the Goods, Services and/or Output Material will not infringe the Intellectual Property Rights of any third party and the Company accepts no liability in this respect.

7. PAYMENT:

- 7.1 Subject only to any special terms agreed in writing between the Company and the Customer, the Company shall be entitled to invoice the Customer for the price of the Goods and/or Services after delivery. Payment in full is due on the last day of the month, following the month of delivery, unless specific payment terms have been agreed otherwise. In all other cases payments shall be made in advance upon submission by the Company of a pro-forma invoice. The time of payment shall be of the essence of the Contract.
- 7.2 All payments shall be made without any deduction, withholding or set-off.
- 7.3 Failure by the Customer to pay any invoice by its due date shall entitle the Company:
- (a) at its option, to charge interest at the rate of five percent (5%) per annum above Lloyds Bank plc's base lending rate from time to time calculated on a daily basis (whether before or after any judgment) until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);
 - (b) to charge the Customer with any costs incurred by the Company in the course of collecting outstanding monies due to the Company from the Customer;
 - (c) to suspend any warranty for the Supplies or any other goods or services supplied by the Company to the Customer, whether or not they have been paid for;
 - (d) to appropriate any payment made by the Customer to such of the Supplies as the Company may think fit;
 - (e) to set off any amount owed by the Company to the Customer against any amount owed by the Customer to the Company on any account whatsoever;
 - (f) to terminate the Contract, or suspend or cancel any future delivery of Goods and/or performance of Services; and

- (g) to cancel any discount (if any) offered to the Customer; and
- (h) if the Customer has an approved credit account, to withdraw or reduce its credit limit or bring forward its due date for payment without notice; and
- (i) to notify the Company's credit insurers of the late payment.

7.4 The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
 7.5 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

8. FORCE MAJEURE:

The Company reserves the right to defer the date of provision of the Supplies, or to cancel the Contract or reduce the volume of the Supplies ordered by the Customer (without liability to the Customer) if it is prevented from, or delayed in, the carrying on of its business (wholly or in part) due to circumstances beyond the reasonable control of the Company including Acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers, or any inability or delay in obtaining supplies of adequate or suitable materials, or the failure or demise of any source of supply.

9. WARRANTY:

9.1 The Company will endeavour to transfer to the Customer the benefit of any manufacturer's warranty or guarantee given to the Company and the Company warrants (subject to the other provisions of these Conditions) that:

- (a) on delivery, the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- (b) if the Customer has made it expressly known to the Company in the Customer's order that the Goods shall be suitable for a particular purpose and the Company has expressly stated in its acceptance of the Customer's order that it will supply Goods suitable for that purpose, then the Goods shall be reasonably fit for the purpose so stated; and
- (c) the Services will be performed with reasonable skill and care.

9.2 The Company's liability pursuant to clause 9.1 shall be limited:

- (a) for Goods, to the repair or replacement of any part of the Goods found to be defective when inspected at the point of delivery, and notified to the Company within the period set forth in clause 9.3 (or, if the claim is on any manufacturer's warranty, within the relevant manufacturer's warranty period); and
- (b) for Services, to re-performing those Services found not to have been performed with reasonable skill and care and notified to the Company within the period set forth in clause 9.3.

9.3 Any defect in the Goods shall be notified to the Company within 7 days from delivery of the Goods and any deficiency in the performance of the Services shall be notified to the Company within 7 days of completion of the performance of the Services; otherwise, the Supplies shall be deemed to be satisfactory and a charge will be made for additional rectification work.

9.4 The Company shall not be liable for any breach of any warranty in clause 9.1, if:

- (a) the Customer makes any further use of any Goods which the Customer has alleged to be defective after giving notice of any such defect;
- (b) the Customer, modifies, adjusts, alters or repairs the Goods without the prior written consent of the Company;
- (c) the defect arises because the Customer failed to follow any oral or written instructions as to the use, storage, installation or maintenance of the Goods or (if there are none) good trade practice;
- (d) the defect arises from any Input Material, or from fair wear and tear, general weathering, wilful damage, negligence, abnormal working conditions, misuse of the Goods or from any other cause which is not due to the neglect or default of the Company;
- (e) the full price for the Supplies has not been paid by the time for payment stipulated in clause 7.1; or
- (f) the defect is of a type specifically excluded by the Company by notice in writing.

9.5 If upon investigation, the Company reasonably determines that any defect or deficiency in the Supplies is a result of, or is excused by, any of the matters referred to in clause 9.4, the Customer shall be liable for all costs reasonably incurred by the Company in investigating the same and determining the cause.

10. EXCLUSION OF LIABILITY AND INDEMNITY:

10.1 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- (a) any breach of these Conditions;
- (b) any use made or resale by the Customer of any of the Goods or of any product incorporating any of the Goods and any use made by the Customer of any of the Services; and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 To the fullest extent permitted by law, all warranties, conditions and other terms implied by statute or common law (with the exception of the conditions implied by section 12 of the Sale of Goods Act 1979 and section 2 of the Supply of Goods and Services Act 1982) are excluded from the Contract.

10.3 Nothing in these Conditions excludes or limits the liability of the Company:

- (a) for death or personal injury caused by the Company's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter for which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.

10.4 Subject to clause 10.2 and clause 10.3:

- (a) the Company'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 Contract price; and

- (b) the Company shall not be liable to the Customer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect, special or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 10.5 Without prejudice to the provisions of clause 2.1, the Company shall not be deemed to have any knowledge of the existence of, or of any of the terms and conditions of, any contract entered into between the Customer and any third party (a Third Party Agreement) notwithstanding that the Customer may have brought said Third Party Agreement to the Company's attention and the foregoing shall apply even if the Company is acting as the Customer's subcontractor under the Contract. Without limiting the generality of the foregoing:
- (a) the Company shall not be deemed to be a party to the Third Party Agreement;
- (b) none of the terms and conditions of the Third Party Agreement shall be deemed to be incorporated into the Contract;
- (c) no act or omission of the Company shall be deemed to cause or contribute to any breach by the Customer of any provision of the Third Party Agreement;
- (d) no terms and conditions of the Third Party Agreement nor any obligation of the Customer or the third party under the Third Party Agreement shall be deemed to affect, eliminate or diminish any obligation of the Customer or right of the Company under the Contract.
- 10.6 The Customer shall hold the Company harmless and keep the Company fully and promptly indemnified against all direct, indirect or consequential liabilities to the extent that any such liabilities arise directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract.
- 11. CHANGES:**
The Company reserves the right without prior approval from or notice to the Customer to make any changes in the specification of the Goods and/or Services which are required to conform to any applicable safety or other statutory or regulatory requirements or which, in the reasonable opinion of the Company, do not materially affect the specification of the Goods and/or Services.
- 12. RISK AND TITLE:**
- 12.1 The Goods are at the risk of the Customer from the time of delivery.
- 12.2 Title to the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- (a) the Goods; and
- (b) all other sums which are or which become due to the Company from the Customer on any account.
- 12.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) hold the Goods on a fiduciary basis as the Company's bailee;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery and indemnify the Company against all loss or damage of whatsoever nature affecting the Goods;
- (d) notify the Company immediately if it becomes subject to any of the events listed in clauses 13.2 (d) to 13.2 (j) inclusive;
- (e) not assign to any other person any rights arising from a sale of the Goods without the Company's written consent;
- (f) give the Company such information relating to the Goods as the Company may require from time to time, but the Customer may resell the Goods in the ordinary course of its business, provided that it shall hold the entire proceeds of any such resale upon trust for the Company until the Goods have been paid for in full. The Customer acknowledges and agrees that a sale by an administrator or liquidator as part of or in connection with the sale of the assets or part of the assets of the Customer is not in the ordinary course of the Customer's business. For the avoidance of doubt, where the Goods have been resold, title to the Goods shall remain with the Company until the Company has received payment in accordance with the provisions of clause 12.2, notwithstanding that the Customer may have received payment for the Goods (in part or in full) from its own client.
- 12.4 If:
- (a) the Customer is late in paying for the Goods; or
- (b) the Customer is late in paying for any other goods or services supplied by the Company; or if
- (c) before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clauses 13.2 (d) to 13.2 (j) inclusive or the Company reasonably believes that any such event is about to happen and notifies the Customer accordingly, then:
- (d) without limiting any other right or remedy the Company may have, the Company may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, the Company may enter the premises of the Customer or the premises of any third party where the Goods are stored or kept in order to recover them and any and all costs, charges and expenses incurred by the Company in so taking possession of the Goods (including legal fees) shall be payable by the Customer upon demand. The Customer shall not keep the Goods at any premises at which the Customer does not have the right to grant access to the Company. Nothing in this clause 12.4 (d) shall affect the right of the Company at any time to inspect the Goods whilst the Goods are stored or kept at the Customer's premises or the premises of any third party.
- 12.5 With respect to any Combined Goods, the Company shall be entitled to remove and repossess the Combined Goods pursuant to clause 12.4 (d) regardless of the practical difficulty of so doing or any damage caused to such other goods or materials in the course of taking all reasonable steps to effect such removal (whether such other goods or materials belong to the Customer or to third parties) and the Customer waives any claim it may have against the Company for any damage caused to its goods or materials as a result of taking such reasonable steps and shall indemnify the Company in full against any claim made against the Company by any third party arising out of or in connection with such reasonable steps being taken by the Company.
- 12.6 With respect to any Incorporated Goods, the Customer shall store them separately and the ownership of such Incorporated Goods and the property therein shall vest in the Company.

13. TERMINATION:

- 13.1 Without prejudice to any other right or remedy of the Company, the Company reserves the right to terminate the Contract immediately at any time upon written notice to the Customer due to any unreasonable delay caused or occasioned by the Customer, or on account of any protracted delay occurring otherwise than due to the fault of the Company. Any received payments will be non-refundable and any outstanding charges shall be immediately due and payable.
- 13.2 The Company reserves the right to terminate the Contract without liability to the Customer immediately on giving notice to the Customer if:
- (a) the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
 - (b) 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 30 days of being notified in writing of the breach; or
 - (c) the Customer repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or
 - (d) 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 a natural person) 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
 - (e) 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 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
 - (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of the Customer other than 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
 - (g) 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
 - (h) a floating charge holder over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver; or
 - (i) 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
 - (j) 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
 - (k) 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 clauses 13.2(d) 13.2(j) (inclusive); or
 - (l) the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
 - (m) there is a change of control of the Customer (as defined in section 574 of the Capital Allowances Act 2001).
- 13.3 On termination of the Contract for any reason:
- (a) the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of any Goods and/or Services supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt; and
 - (b) 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.

14. GENERAL:

- 14.1 No forbearance or indulgence granted by the Company to the Customer shall in any way limit the rights of the Company under these Conditions.
- 14.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business.
- 14.3 Neither the Company nor the Customer intends that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 14.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 14.5 The Company shall be entitled at its discretion to perform any of the obligations assumed by it through subcontractors and to exercise any of its rights granted to it under the Contract through any other company or subsidiary.
- 14.6 The Contract constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements and understandings between the parties.
- 14.7 Any dispute arising under or in connection with the Contract shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application by either party to the President for the time being of the Law Society whose decision as to the type, qualifications and experience of such arbitrator shall be final and binding on the parties. The costs of the arbitrator shall be borne by the parties as he directs and his decision on the issue in dispute shall be final.
- 14.8 The Contract shall be subject to and construed under English Law and the parties hereby submit to the exclusive jurisdiction of the English courts for that purpose.