

# CONDITIONS OF SALE (FOR GOODS AND SERVICES)

## V3 September 2021

### 1 INTERPRETATION

1.1 In these terms and conditions of sale the following words will (unless the context otherwise requires) have the following meanings:

"Company" means NOTE Windsor Limited.

"Conditions" means these terms and conditions of sale.

"Contract" means any contract between the Company and the Customer for the supply of any Works which, for the avoidance of doubt, includes these Conditions.

"Customer" means the company, firm, body or person purchasing the Works.

"Customer's Property" means any equipment, goods, materials or information (including the Specification) supplied by or on behalf of the Customer to the Company in connection with the Works but excluding Set-up.

"Delivery Address" means the address for delivery as set out in the Order Acknowledgement or such other address as may be agreed in writing by the Company.

"Goods" means (i) any goods (or any part of them) to be supplied to the Customer as set out in the Order Acknowledgement and/or (ii) any goods or Material which forms part of the Services.

"Material" means any equipment, goods or material whatsoever detailed in the Specification which the Company purchases from suppliers and or sub-contractors for the purpose of the Works.

"Order Acknowledgement" means the document to be completed by the Company and sent to the Customer following receipt of a Purchase Order, which includes, without limitation, confirmation of the Works, estimated shipment date and Price.

"Procurement Services" means Services which involve the procurement or sourcing of Material from third parties.

"Price" means the price of the Works set out in the Order Acknowledgement, as such price is amended from time to time pursuant to these Conditions.

"Purchase Order" means the document used by Customers to place an order for Goods or Services.

"Set-up" means any equipment, tooling and other materials whatsoever, and any programming and other processes and operations which, in any such case, are essential for the provision of the Services and which form part of the costs incurred by the Company, its suppliers and sub-contractors which constitute non-recurring expenses (NRE).

"Services" means any services agreed in the Order Acknowledgement to be provided by the Company to the Customer (including but not limited to the whole or any part or parts of them) and may, where applicable, comprise Procurement Services.

"Specification" means the specification for the Works, including any related plans and drawings supplied by the

Customer to the Company (as amended from time to time by agreement in writing between the parties).

"Working Days" means any day which is not a Saturday or Sunday or a public or bank holiday in England.

"Works" means the Goods and/or the Services (as appropriate).

1.2 Any reference in these Conditions to any statute or statutory provision will (unless the context otherwise requires) be construed as a reference to that statute or statutory provision as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time.

1.3 The headings in these Conditions are for reference only and will not affect the interpretation of these Conditions.

1.4 In these Conditions, the words "agreed in writing" will mean "agreed in writing and signed by a director of the Company".

1.5 The Company may at any time correct any clerical, typographical or other similar errors made by its employees in relation to any Works.

1.6 In the event of any conflict between these Conditions and an Order Acknowledgement, then the Order Acknowledgement shall prevail. The Contract between the Company and the Customer shall comprise only the Purchase Order, the Specification, the Order Acknowledgement and these Conditions, to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

### 2 QUOTATIONS

2.1 Any quotation (whether written or oral) is given on the basis that no contract will come into existence otherwise than in accordance with the provisions of clauses 3.5 and 3.6.

2.2 Any quotation is based on the instructions and information provided by the Customer and, where applicable, Material suppliers. Where any such instructions or information are inaccurate or incomplete, or are subsequently changed by the Customer or the Material supplier, as the case may be, the Company may amend the price, delivery and any other relevant terms in the quotation at any time.

### 3 APPLICATION OF TERMS

3.1 Subject to clause 3.4, these Conditions will apply to all dealings in relation to Works between the Company and the Customer.

3.2 No terms or conditions endorsed upon, delivered with, referred to or stipulated or contained in any Purchase Order or otherwise delivered or sent by the Customer to the Company will form part of the Contract.

3.3 Any reference in these Conditions to the Purchase Order or other similar document will not be deemed to imply or accept that any terms or conditions endorsed upon, delivered with, referred to or stipulated or contained in such

Purchase Order or other similar document will have effect to the exclusion or amendment of any of these Conditions.

3.4 Any variation to any Contract (including these Conditions or to any Order Acknowledgement) will only be effective if it is agreed in writing, contains a specific reference to what is to be varied and is signed by a director or duly authorised representative of the Customer.

3.5 Each Purchase Order for Works issued by the Customer will be deemed to be an offer by the Customer to purchase Works subject to these Conditions.

3.6 No Purchase Order placed by the Customer will be deemed to be accepted by the Company until an Order Acknowledgement relating thereto is issued by the Company or (if earlier) the Company commences the Works or supplies the Works to the Customer (subject always to clauses 6.1 and 6.2).

3.7 The Customer agrees and undertakes that the content of its Purchase Order and any applicable Specification are complete and accurate.

3.8 Unless otherwise agreed in writing, all drawings, illustrations, descriptions, specifications, technical data, advertising and other similar information issued by the Company or contained in the Company's catalogues, brochures, trade literature, price lists or other similar published materials are issued or published only for the purpose of giving an approximate idea of the Works described in them and do not form part of the Contract.

3.9 Any Purchase Order which has been accepted by the Company in accordance with clause 3.6 may only be amended, cancelled, postponed or varied by the Customer with the prior written consent of the Company and on terms that the Customer will indemnify the Company in full against all costs, damages, charges and expenses incurred by the Company as a result of such amendment, cancellation, postponement or variation.

#### 4 DELIVERY

4.1 The Company shall deliver the Goods to the Delivery Address. Subject to the provisions of clause 4.2, delivery will be deemed to take place when the Goods are delivered to the Delivery Address.

4.2 If the Company agrees to permit the Customer to collect the Goods from the Company's place of business, then delivery will be deemed to take place when the Company notifies the Customer that the Goods are ready for collection and, unless otherwise agreed in writing, the Customer will collect the Goods within 10 Working Days of the issue of such notice.

4.3 Any times specified or agreed by the Company within the Order Acknowledgement or otherwise for the shipment of the Works are given in good faith but are an estimate only. Unless otherwise agreed in writing, time for the shipment of the Works will not be of the essence of the Contract.

4.4 The Company will use its reasonable endeavours to deliver the Works within the times set out in clause 4.3 but the Company will not be liable for the consequences of any delay or failure to deliver in accordance with any such times.

4.5 The Company will use its reasonable endeavours, save as specifically instructed by the Customer, to ensure where necessary that the Goods will be packed so as to be adequately protected against damage in normal conditions of transit of usual duration. The Company will make such

arrangements for the carriage and insurance of the Goods as it agrees with the Customer.

4.6 The Company may deliver the Works in instalments. Deliveries of further instalments may be withheld until the Works comprised in earlier instalments have been paid for in full. Default or delay in delivery by the Company (howsoever caused) in respect of one or more instalments will not entitle the Customer to terminate the relevant Contract as a whole.

4.7 At the time of delivery the Customer shall examine the Goods. Subject to clause 8.3, the Company will not be liable for any shortages in or non-delivery of the Goods (even if caused by the Company's negligence) unless the same is notified in writing by the Customer to the Company (together with all relevant details) within 3 Working Days following the actual date of delivery (as appropriate). Subject to such notice being provided, the Company will, if it is reasonably satisfied that any Goods have not been delivered as a result of the Company's default, (in its sole discretion) either arrange for delivery as soon as reasonably possible of any shortfall in the Goods or give credit (at the pro-rata Contract price) to the Customer for such Goods. Any shortages in or non-delivery of part of the Goods will not affect the Contract in respect of the other parts of the Goods.

4.8 If the Company complies with clause 4.7 it will, subject to clause 8.3, have no further liability (whether in contract, tort (including but not limited to negligence) or otherwise for such shortages or non-delivery of the Goods.

4.9 Whilst the Company will use reasonable endeavours to supply the exact quantity of the Works ordered by the Customer, the Company may supply and the Customer will accept up to 5% more or less than the exact quantity ordered.

4.10 The Customer (at its own expense) will ensure that the place where delivery of the Goods or performance of the Services is to take place is adequate and appropriate for such delivery or performance and will provide such access, equipment, facilities, protection, manual labour and information as may reasonably be required to enable the Company to perform its obligations under the Contract.

#### 5 RISK AND OWNERSHIP

5.1 Unless otherwise agreed in writing the Goods are at the risk of the Customer from the time of delivery or deemed delivery to the Customer (as appropriate) and loading and off-loading (as appropriate) will be at the Customer's risk. Section 20(2) of the Sale of Goods Act 1979 will not apply.

5.2 Notwithstanding that risk in the Goods will pass to the Customer in accordance with the provisions of clause 5.1, ownership of the Goods (both legal and equitable) will only pass to the Customer (other than when ownership is properly vested in some other person by the operation of any statute) when the Company has received in full (in cash or cleared funds) all monies due to it from the Customer in respect of the Goods.

5.3 Until ownership of the Goods has passed to the Customer under clause 5.2, the Customer will:

- (a) hold the Goods on a fiduciary basis as the Company's bailee;
- (b) keep the Goods free from any charge, lien or other encumbrance;
- (c) store the Goods (at no cost to the Company) separately from all other materials of the Customer

- or any third party in such a way that they remain readily identifiable as the Company's property;
- (d) not destroy, deface or obscure any identifying mark on the Goods or their packaging;
  - (e) maintain the Goods in a satisfactory condition, insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company and on request produce such policy of insurance to the Company;
  - (f) hold all proceeds of the insurance referred to in clause 5.3(e) on trust for the Company and not mix it with any other money or pay the proceeds into any overdrawn bank account; and
  - (g) not attach the Goods to any real property without the Company's written consent.

5.4 The Customer may resell, use or otherwise dispose of the Goods before ownership has passed to it only if any such sale, use or disposition will be effected in the ordinary course of the Customer's business and will be a sale, use or disposition of the Company's property on the Customer's own behalf and the Customer will deal as principal.

5.5 The Company may while the owner of the Goods (and without prejudice to any other rights it may have under or by virtue of these Conditions) demand the immediate return of the Goods at any time and the Customer will forthwith comply with such demand and bear the expenses for such return.

5.6 The Customer grants to the Company (or its successors in title for the Goods) and their respective employees and agents an irrevocable licence to enter at any time any premises where the Goods are or may be situated for the purpose of inspecting or removing any such Goods the ownership in which has remained with the Company.

5.7 The Company will be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

5.8 The Goods will be deemed sold or used in the order delivered to the Customer.

## 6 PRICE AND PAYMENT

6.1 The Price is subject at all times to fluctuations in the cost of Material including, without limitation, exchange rate variations, Customer delivery date amendments, market conditions, Customer quantity amendments, stock availability and supplier price amendments etc. Accordingly, the relevant Price may be amended up until the point of delivery by reason of such fluctuations. The Company will provide notice in writing to the Customer of any such amended Price which occurs following any quotation and/or Order Acknowledgement, accompanied by reasonable supporting evidence. Once such notice has been provided, the applicable Price shall be amended accordingly.

6.2 The Price is subject to amendment for labour and associated costs if the Works vary materially from what was understood to be the case by the Company at the time of quotation. Reasons for such amendment include, without limitation, Customer-supplied test or build times not being accurate, Customer test equipment failing, modifications or rework due to Customer- or supplier- related issues, Customer instructing earlier delivery dates, the Company having to split manufacturing batches due to Customer's Property or Material not being available at the required time. The Company will provide notice in writing to the Customer

of any such amended Price which occurs following any quotation and/or Order Acknowledgement, accompanied by reasonable supporting evidence. Once such notice has been provided, the applicable Price shall be amended accordingly.

6.3 Quotations given in a currency other than sterling are based on the rate of exchange at the time of quoting and (unless otherwise agreed in writing between the parties) the price may be subject to revision if any different rate of exchange applies at the date of invoice.

6.4 Unless otherwise agreed in writing, the price for the Works is exclusive of any delivery charges.

6.5 Unless otherwise agreed, the price for the Works is exclusive of any value added tax (and any other tax or duty relating to the manufacture, transportation, sale or delivery of the Works) and any costs or charges in relation to export and/or import, packaging, loading, unloading, carriage and insurance. Such costs and expenses will be paid by the Customer when it is due to pay for the Works.

6.6 The Company may invoice the Customer for the Works at any time after the delivery of the Works or the delivery of any instalment (as appropriate). If any delivery is postponed at the request, or by the default, of the Customer, then the Company may submit its invoice at any time after the Works are ready for delivery or would have been ready in the ordinary course but for the request or default on the part of the Customer.

6.7 Customers who have been granted by the Company (in its sole discretion) a credit account facility will, unless otherwise agreed in writing, pay amounts invoiced within 30 days of the end of the month in which the relevant invoice is dated. The Company may (in its sole discretion) amend the terms of or withdraw such credit account facility at any time without notice with immediate effect and on such withdrawal all amounts then due or accruing due to the Company under the Contract will become immediately payable notwithstanding any other provision of these Conditions.

6.8 Customers who have not been granted a credit account facility will pay upon receipt of the Company's pro forma invoice.

6.9 No payment will be deemed to have been received until the Company has received cleared funds.

6.10 Time for payment will be of the essence of the Contract and the Customer will indemnify the Company in full against all expenses and legal costs incurred by the Company in recovering overdue amounts.

6.11 All amounts payable to the Company under the Contract will become due immediately on termination of this Contract notwithstanding any other provision of these Conditions.

6.12 The Customer will make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a binding court order requiring an amount equal to any such deduction to be paid by the Company to the Customer.

6.13 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Customer will be liable to pay interest to the Company on such sum from the due date for payment at an annual rate of 4% above the base lending rate of Barclays Bank Plc from time to time accruing on a daily basis until payment is made in full (whether before or after any judgement).

## 7 QUALITY

7.1 Where the Company is the manufacturer of the Goods, the Company warrants (subject to the provisions of this clause 7) that:

- (a) on delivery of the Goods, the Goods will (subject to clause 3.7) conform in all material respects with the Specification; and
- (b) for a period of 12 months from the date of delivery, the Goods will be free from manufacturing defects in workmanship.

7.2 The Company warrants that (subject to the provisions of this clause 7):

- (a) the Services will be performed with reasonable skill and care by properly qualified and experienced persons; and
- (b) the Company shall use its reasonable endeavours to transfer to the Customer the benefits of any warranty or guarantee given by the relevant Material supplier.

7.3 The Customer acknowledges and agrees that it is exclusively responsible for the Specification and for determining the Goods' use and their ability to function for any particular purpose. Accordingly, the Company shall not be liable to the Customer for any advice given by the Company to the Customer relating to its requirements in respect of any Goods, their use and/or functionality.

7.4 Where the Company is the manufacturer of the Goods and/or the Company performs Procurement Services and in so doing identifies (and notifies the Customer) that the Goods do not comply with the Specification and notwithstanding this the Customer requests the Company to manufacture and/or purchase such Goods, then the Company shall not provide any warranty that the Goods comply with the Specification and shall not be liable for any losses, liability, claims, costs or damages suffered or incurred by the Customer as a result of such non-compliance and the Customer shall not be relieved in any way of its obligation to pay for the Goods by reason of them not complying with the Specification.

7.5 The Company will not be liable for any breach of any of the warranties in clauses 7.1 and 7.2 unless:

- (a) the Customer gives written notice of the defect to the Company within 28 days of the date when the Customer discovers or ought reasonably to have discovered the defect;
- (b) (if the defect is as a result of damage in transit) the Customer gives written notice of the defect to the carrier in the manner and within the appropriate time limit as set out in the carrier's terms of business;
- (c) the Company is given a reasonable opportunity after receiving such notice to examine such Works and, in the case of Goods, the Customer (if requested to do so by the Company) returns such Goods to the Company's place of business (at the Customer's cost) for the examination to take place there; and
- (d) the Customer obtains a Returns Material Authorisation number from the Company prior to returning any Goods to the Company pursuant to clause 7.5(c).

7.6 The Company will not be liable for a breach of any of the warranties in clause 7.1 and 7.2 to the extent that:

- (a) the Company has complied with the Specification and the defect is attributable to any error, fault, omission or any other matter whatsoever in the Specification;
- (b) the defect arises from the Customer's Property (including Customer-supplied components (free issued or sold)) or as a result of the Customer's negligence or breach of the Contract;
- (c) the defect arises as a result of fair wear and tear, misuse, wilful damage, or abnormal working conditions;
- (d) the defect arises as a result of any Materials or parts or equipment not manufactured or workmanship not performed by the Company;
- (e) the Customer makes any further use of such Works after giving written notice of the defect;
- (f) the defect arises because the Customer has failed to follow the Company's instructions (whether oral or in writing) as to the storage, assembly, installation, commissioning, use, processing, handling or maintenance of the Works or (if there are none) good trade practice;
- (g) the defect arises as a result of any installation, testing or commissioning of the Works performed by the Customer or any third party; or
- (h) the defect arises as a result of any alteration, servicing or repair of the Works not made by the Company.

7.7 Subject to clauses 7.3, 7.4, 7.5 and 7.6, if any of the Works do not conform with any of the warranties set out in clauses 7.1 and 7.2, the Company will at its option and cost either repair or replace such Goods (or the defective part), re-perform such Services or refund the price of such Works at the pro rata Contract rate.

7.8 If the Company complies with clause 7.7, it will have no further liability (in contract, tort (including but not limited to negligence) or otherwise) for breach of any of the warranties in clauses 7.1 or 7.2 in respect of such Works.

7.9 Any Goods replaced by the Company in accordance with the provisions of clause 7.7 will belong to the Company and any repaired or replacement Goods will be subject to clause 7.1(b) for the unexpired portion of the 12 month period applicable to the Goods originally supplied.

7.10 Where the Company provides Procurement Services, then the Company gives no warranty or other commitment whatsoever that the Goods comply with the requirements of any applicable law or regulation, including, but not limited to, UK regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals or the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 (as amended) and shall not be liable in any way to the Customer for any failure of such Goods to comply with any applicable law or regulation.

## 8 LIMITATION OF LIABILITY

8.1 All warranties, conditions and other terms implied by statute or common law (except for 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, to the fullest extent permitted by law, excluded from the Contract.

8.2 The Company's liability in relation to the warranties given in clause 7.1 and 7.2 shall be limited as provided in clause 7.7.

8.3 Nothing in these Conditions excludes or limits the liability of the Company for fraudulent misrepresentation or for any death or personal injury caused by the Company's negligence or by 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.

8.4 Subject to clause 8.1 and 8.2, the Company will not be liable to the Customer in contract, tort (including but not limited to negligence), misrepresentation or otherwise for any:

- (a) economic loss of any kind (including but not limited to loss of profit, business, contracts, revenue or anticipated savings);
- (b) damage to the Customer's reputation or goodwill;
- (c) product recall costs; or
- (d) other special, indirect or consequential loss or damage

(even if the Company has been advised of such loss or damage) arising out of or in connection with the Contract.

8.5 Subject to the provisions of clause 8.2, 8.3, 8.6 and 8.7, the Company's total liability arising out of or in connection with the Contract will be limited to the Price.

8.6 For the purposes of clause 8.5, where the Purchase Order relates to a number of sets of Goods, the Price shall only be the price attributable to those particular Goods in respect of which there is a breach of any of the warranties in clause 7.1 and/or 7.2 and shall not be the aggregate price applicable to all the Goods which are the subject of the Contract.

8.7 For the purposes of clause 8.5, where the Purchase Order relates to a series of discrete Services, the Price shall only be the price attributable to those particular Services in respect of which there is a breach of any of the warranties in clause 7.1 and/or 7.2 and shall not be the aggregate price applicable to all the Services which are the subject of the Contract.

## 9 THE CUSTOMER'S PROPERTY

9.1 While the Company will take reasonable care of the Customer's Property whilst it is in the Company's possession, control or custody, the Customer's Property will (unless otherwise agreed in writing) remain at the Customer's risk and all replacements and alterations of and repairs to the Customer's Property will be the Customer's responsibility.

9.2 The Company will not be liable for any loss or damage to the Customer's Property unless such loss or damage arises as a direct result of the Company's negligence. Where the Company is liable under this clause 9.2, the Company's liability to the Customer will be limited to the actual cost of the replacement or repair of the Customer's Property (as the case may be).

9.3 The Customer will ensure that the Customer's Property is in good condition and suitable for use by the Company in the performance of the Contract and, while the Company will use reasonable endeavours to verify any relevant

aspects of the Customer's Property, no responsibility is accepted by the Company for such condition or suitability.

9.4 Any defect in the Works which is due in whole or in part to the Customer's Property will not entitle the Customer to terminate the Contract, reject the Works, make any deductions from the Price or claim damages in respect of such defect.

9.5 The Customer will keep the Company indemnified in full against all liability, losses, damages, claims, actions, demands, expenses or proceedings awarded against or incurred by the Company as a result of or in connection with the use by the Company of the Customer's Property save to the extent such liability, losses, damages, claims, actions, demands, expenses or proceedings are the result of the Company's negligent acts or omissions.

## 10 OWNERSHIP OF TOOLING

Where tooling and equipment are not supplied by the Customer, only those physical items which are specifically made by the Company or a relevant sub-contractor for the purposes of the Contract and separately charged to the Customer in full, will, when paid for by the Customer, become the property of the Customer. Notwithstanding the foregoing, in no circumstances shall Set-up become the property of the Customer.

## 11 CONFIDENTIALITY

11.1 Each party will keep confidential all technical data, commercial information, know-how, specifications, inventions, processes, initiatives and other information which is of a confidential nature and which has been disclosed to it by the other party or its agents in connection with the Contract and any other confidential information concerning the other party's business or its products which it may obtain as a result of the Contract ("Confidential Information").

11.2 Each party will restrict disclosure of the Confidential Information to such of its employees, agents or subcontractors as need to know the same and will ensure that such employees, agents or subcontractors are subject to equivalent obligations of confidentiality as bind it.

11.3 Neither party will without the prior written consent of the other publish or disclose the Confidential Information to any third party or make any use of the Confidential Information except to the extent necessary to perform the Contract.

## 12 INTELLECTUAL PROPERTY

12.1 The Customer will keep the Company indemnified in full against all liability, losses, damages, claims, actions, demands, expenses or proceedings in respect of any infringement or alleged infringement of any patent, registered design, unregistered design, design copyright, trade mark or other intellectual property rights whatsoever resulting from any use by the Company of the Customer's Property or any compliance by the Company with the Customer's instructions and/or the Specification, whether express or implied.

12.2 Unless otherwise agreed in writing, ownership in all intellectual property rights subsisting in the Specification will vest in the Customer and all intellectual property rights subsisting in the manufacturing process relating to the Works (including all know how and trade secrets) shall vest in the Company.

12.3 Nothing in these Conditions will be construed as any representation or warranty by the Company that the design,

manufacture, use or sale of the Works is not an infringement of any third party intellectual property rights.

### 13 TERMINATION

13.1 Either party may terminate the Contract immediately by notice in writing to the other party if:

- (a) the other party is in breach of any term of the Contract and has failed to remedy such breach (if it capable of remedy) within 28 days of receipt of written notice specifying the breach and requiring it to be remedied; or
- (b) the other party 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), obtaining a moratorium, 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.

13.2 The Company may terminate the Contract immediately if the Customer fails to pay the Price on the due date, or if there is a material change in the ownership or control of the Customer.

13.3 The termination of the Contract (howsoever arising) will be without prejudice to any rights and remedies which may have accrued to either party.

13.4 Any Conditions which impliedly have effect after termination or expiry will continue to be enforceable notwithstanding termination or expiry.

### 14 EXPORT SALES

14.1 Where the Works are supplied for export from the United Kingdom the provisions of this clause 14 will (subject to any special terms agreed in writing between the parties) apply despite any other provision of these Conditions.

14.2 The Uniform Laws on International Sales Act 1967 will not apply.

14.3 Unless otherwise agreed in writing the currency will be pounds sterling.

14.4 Unless otherwise stated on the Order Acknowledgement or agreed in writing between the parties, the Works will be sold ex works (as defined in INCOTERMS 2020 Edition).

14.5 The Customer will be responsible for complying with any legislation or regulation governing the export of the Works from the United Kingdom and the importation of the Works into the country of destination and for payment of any relevant duties or taxes.

### 15 LIEN

The Company will have in respect of unpaid debts due to it from the Customer a general lien on all property of the Customer which is in the Company's possession for whatever reason and whether worked upon or not.

### 16 ASSIGNMENT AND SUBCONTRACTING

16.1 The Customer will not without the prior written consent of the Company assign or transfer the Contract or any part of it to any other person.

16.2 The Company may assign, transfer or subcontract the Contract or any part of it to any other person.

### 17 FORCE MAJEURE

The Company shall not be liable to the Customer as a result of any delay or failure to perform its obligations under the Contract as a result of any events, circumstances or causes beyond its reasonable control.

### 18 GENERAL

18.1 Each right or remedy of a party under these Conditions is without prejudice to any other right or remedy which such party may have under these Conditions or otherwise.

18.2 Any notice or document shall be deemed served, if delivered by hand, at the time of delivery, if posted, 48 hours after posting and if sent by email transmission, at the time of transmission PROVIDED that any notice under clause 13 may only validly be given if delivered by hand or if posted.

18.3 The illegality, invalidity or unenforceability of any provision of these Conditions will not affect the legality, validity or enforceability of any other provisions of these Conditions.

18.4 Failure or delay by either party in exercising any right or remedy provided by the Contract or by law will not be construed as a waiver of such right or remedy or a waiver of any other right or remedy.

18.5 A person who is not a party to the Contract will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. This clause 18.5 does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

18.6 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that, in entering into the Contract, it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

18.7 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

18.8 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

**END**

**POL07 v3 September 2021**