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CONDITIONS OF SALE

1. DEFINITIONS

The **Company:** A-SAFE UK LIMITED (Company Number: 10530847), Registered office: Habergham Works, Ainleys Industrial Estate, Elland, West Yorkshire, HX5 9JP.

The **Buyer:** Any organisation, firm, company, governmental agency or other body that enters into a contract with the Company to acquire Goods and/or Services.

The **Goods:** Articles or products that the Company agrees to supply to the Buyer pursuant to these conditions.

Services: The installation services in respect of the Goods to be provided by the Company together with any other services which the Company provides, or agrees to provide, to the Buyer.

Company's Equipment: Any equipment, including but not limited to tools, cabling or facilities, provided by the Company or its subcontractors and used directly or indirectly in the supply of the Services.

Delivery Point: The place(s) where delivery of the Goods and/or performance of the Services is to take place as the case may be.

Intellectual Property Rights: All patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, database right, 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;

Price: The price for the Goods and/or Services, unless otherwise agreed or varied by the Company in writing, shall be the price stated in the quotation or estimate and order acceptance issued by the Company to the Buyer.

2. FORMATION AND CANCELLATION

2.1 All orders are accepted subject to these conditions which cannot be varied except expressly in writing by a director of the Company.

2.2 Any quotation or estimate given by the Company is merely an invitation to the Buyer to make an offer. Any quotation or estimate is given on the basis that no contract shall come into existence until the Company approves the Buyer's creditworthiness. Any order issued by the Buyer is subject to acceptance by the Company and a contract will only be formed when the Company has accepted the Buyer's order in writing or, if earlier, the Company delivers the Goods to the Buyer and/or commences performance of the Services.

2.3 Any quotation or estimate is valid for a period of 30 days from its date, provided that the Company has not previously withdrawn it.

2.4 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

2.5 These conditions prevail over any other terms and conditions which a Buyer might seek to impose even though such other terms and conditions purport to exclude or supersede any terms and conditions inconsistent with them or may be contained in any later document, offer, acceptance or counter offer made by the Buyer.

2.6 Requests by the Buyer to cancel or amend any order or for the rescheduling of the Services shall be made in writing and shall only be accepted by the Company in writing. The Company reserves the right to refuse to cancel any order once a contract has been made.

2.7 The Buyer will, in the event of agreed cancellation, indemnify the Company fully against all loss (including loss of profit), costs (including the full cost of labour and materials used and time spent restocking, typically 25% of the Price), damage, charges and expenses incurred up to the time of such cancellation which shall be paid by the Buyer forthwith.

3. DESCRIPTION

3.1 The quantity and description of the Goods and/or Services is set out in the Company's quotation, estimate and/or order acknowledgement.

3.2 All samples descriptions, drawings, specifications, technical data, illustrations and advertising issued by the Company, or contained in the Company's brochures, catalogues or other materials, are approximations only, should not be relied on by the Buyer as precise or construed literally, and do not form part of a contract. This is not a sale by sample.

3.3 The Company reserves the right to change any descriptions, drawings, specifications, technical data, illustrations, brochures, catalogues, advertising materials and any other materials provided at any time without notice.

4. PRICE

4.1 Prices given in estimates or quotations shall not form part of the contract between the Company and the Buyer.

4.2 The Price is based on the costs of materials, labour, sub-contracts, transport, taxes and duties, and all other relevant costs at the date of the quotation, estimate and/or order acknowledgement and on the work being done in normal working hours. The Company reserves the right to vary the Price to take account of any variation in these costs or the imposition of any new taxes or duties occurring from whatever cause between the date of the quotation, estimate and/or order acknowledgement and completion of the contract.

4.3 Unless otherwise agreed by the Company in writing, the Price shall be exclusive of VAT and any costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer will pay when they fall due.

4.4 In addition to the Price, the Buyer shall pay for any additional:

4.4.1 work carried out by the Company, at the Buyer's request, which the Company was not originally contracted to undertake;

4.4.2 work required as a result of any matter that the Company did not know existed at the date of the quotation, estimate and/or order acknowledgement;

4.4.3 work or costs as a result of the Buyer providing inadequate or inaccurate instructions, information or drawings to the Company or arising from the Buyer failing to comply with any of the conditions; and

4.4.4 travel costs calculated as travel from the Company's registered office at its standard travel rate at the time the journey in question is undertaken.

4.5 Any additional costs payable by the Buyer under clause 4.4 will be invoiced by the Company and charged at rates (together with a percentage in respect of overheads and profit) based on the cost of materials, labour, sub-contractors, transport, taxes and duties at the time the work is carried out.

4.6 The Price for the Services shall be the amount set out in the order acknowledgement. The total price shall be paid to the Company (without deduction or set-off) in instalments, as set out in the order acknowledgement. At the completion of the Services, the Company shall invoice the Buyer for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate, calculated as provided in clause 4.5.

4.7 Any Price for the Services excludes the cost of hotel, subsistence and any other ancillary expenses reasonably incurred by the individuals whom the Company engages in connection with the Services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by the Company for the supply of the Services. Such expenses, materials and third party services shall be invoiced by the Company at cost.





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5. TERMS OF PAYMENT

- 5.1 Payment for Goods and/or Services is due 30 days from date of invoice unless otherwise stated. No payment shall be deemed made until the Company has received cleared funds.
- 5.2 Time for payment shall be of the essence.
- 5.3 The Company reserves the right to alter any credit limit set at any time.
- 5.4 Without prejudice to any other rights or remedies of the Company, if any amount due from the Buyer is not paid in accordance with these conditions then the Company may at its sole discretion do all or any of the following:
- 5.4.1 without notice suspend or cancel delivery of the Goods and/or performance of the Services under the contract, and any other contract, until the Buyer pays the outstanding amount(s) in full;
- 5.4.2 treat any or all contracts as repudiated by the Buyer;
- 5.4.3 appropriate any payment made by the Buyer under any other contract with the Company to pay for any outstanding amounts as the Company may, in its sole discretion, think fit.
- 5.4.4 require that the Buyer makes a payment in advance for any part of the Services provided but not yet invoiced or not yet provided.
- 5.4.5 claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 ("the LPCD Act"), together with any charges under the Contract or otherwise permitted under the LPCD Act.
- 5.5 On termination of the Contract, howsoever caused, the rights of the Company in this clause 5 shall remain in effect.
- 5.6 All payments payable to the Company under the contract shall become due immediately upon termination of the contract despite any other clause. This clause is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 5.7 The Buyer shall make all payments due under the contract in full without any deduction, whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 5.8 The Company may, without prejudice to any other rights it may have, set off any liability of the Buyer to the Company against any liability of the Company to the Buyer.

6. DELIVERY INSPECTION, SHORTAGES AND INVOICING

- 6.1 Delivery will be deemed to have been effected when:
- 6.1.1 the Company despatches the Goods to the Buyer's delivery address;
- 6.1.2 the Company informs the Buyer that the Goods are ready for collection at the premises of the Company (or the premises of the suppliers to the Company in circumstances where the Goods are delivered direct from such suppliers);
- 6.1.3 the Services have been performed by the Company.
- 6.2 Any dates and times indicated by the Company for delivery are estimates only and time of delivery is not of the essence of any contract.
- 6.3 The Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and any similar loss) costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods or the performance of the Services (even if caused by the Company's negligence), nor shall any such delay entitle the Buyer to repudiate or terminate or rescind the contract unless such delay exceeds 180 days and only in such a case where the delay is wholly and completely the fault of the Company.
- 6.4 The Company reserves the right to make deliveries by instalments and to tender a separate invoice in respect of each instalment.
- 6.5 Delay in delivery of any one or more instalments for whatever reason will not entitle the Buyer to treat the contract as repudiated or to damages.
- 6.6 The Buyer is under a duty to inspect the Goods on delivery or on collection as the case may be. Where inspection is not possible the delivery note must be marked by the Buyer to the effect that the Goods have not been examined. In any event, no claim for damage to, for shortage in or for non-delivery of the Goods delivered will be considered by the Company (even if caused by the Company's negligence) unless the Buyer notifies the Company in writing within 5 days of delivery.
- 6.7 Deviations in the quantity of the Goods delivered from that stated in any contract document shall not give the Buyer any right to reject the Goods delivered or to claim damages. The Buyer shall, at its own discretion, be able to accept and pay for the excess quantity of Goods delivered at the contract rate, or request the Company to arrange collection, at the Company's expense, of the excess quantity of Goods delivered.
- 6.8 Where the Buyer notifies the Company of any defects or shortages, the Company shall be under no liability unless an opportunity to inspect the Goods is given to the Company before any use is made of or any alterations/modifications are made by the Buyer.
- 6.9 The Company shall make good any shortage in or non-delivery of the Goods and at its sole discretion replace any Goods damaged in transit as soon as it is reasonably able to do so or issue a credit note at the pro rata contract rate against any invoice raised for such Goods but otherwise shall be under no liability whatsoever or howsoever arising for such shortage, non-delivery or damage.
- 6.10 If, for any reason, the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations or has failed to comply with this clause 6:
- 6.10.1 the Goods will be deemed to have been delivered;
- 6.10.2 the Company may store the Goods until actual delivery, whereupon the Buyer will be liable for all related costs and expenses (including, without limitation, storage and insurance costs); and
- 6.10.3 risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence).
- 6.11 The Company will not be required to undertake the Services (if any) until delivery of the Goods has taken place and all the requirements of the Company are met to the reasonable satisfaction of the Company.
- 6.12 The Company will invoice the Buyer: on the date the Goods are despatched or
- 6.12.1 for ex-works orders the Buyer will be notified when the goods are ready for collection. The sales invoice will be raised within 2 working days of this notification irrespective of whether the goods have been collected by the Buyer or
- 6.12.2 on the date the installation is completed except in circumstances where installation has not been completed within the same month as the Goods were despatched; in such circumstances a percentage of completed installation will be invoiced at the end of the same month Goods were despatched, and continue to invoice a percentage of completed installation each and every month until the job is completed.
- 6.13 For Sale or Return trials the Company will invoice the Buyer if they decide to keep the Goods after six weeks at full list price unless agreed otherwise.

7. RISK AND PASSING OF PROPERTY

- 7.1 Risk in the Goods shall pass to the Buyer upon delivery.

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7.2 Title in the Goods shall not pass until payment has been made in full by the Buyer in cash or cleared funds for the Goods and all other goods agreed to be sold by the Company to the Buyer for which payment is then due.

7.3 The Buyer is licensed by the Company to use or agree to sell the Goods subject to the express conditions that any sale is in the ordinary course of the Buyer's business at full commercial rates, the Buyer acts as principal in the sale and the entire proceeds of any sale are held in trust for the Company and are not mixed with other monies or paid into an overdrawn bank account and shall at all times be identifiable as the Company's monies. In the event of resale of the Goods by the Buyer pursuant to this clause title shall be deemed to have passed to the Buyer immediately prior to delivery to the Buyer's customer notwithstanding clause 7.2.

7.4 Until such time as title in the Goods passes to the Buyer:

7.4.1 The Buyer will hold the Goods as fiduciary agent and bailee for the Company;

7.4.2 The Goods shall, subject to clause 7.3, be kept separate and distinct from all other property of the Buyer and of third parties and in good and substantial repair and condition and shall be stored in such a way as to be clearly identifiable as belonging to the Company;

7.4.3 The Buyer shall not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

7.4.4 The Buyer shall maintain the Goods in satisfactory condition and insure them, and keep them insured, for their full Price against all risks to the reasonable satisfaction of the Company and, when requested, provide a copy of the insurance policy to the Company; and

7.4.5 The Buyer shall deliver up the Goods to the Company on demand.

7.5 The Company shall at any time be entitled to appropriate any payment made by the Buyer in respect of any goods in settlement of such invoices or account in respect of such goods as the Company may in its absolute discretion notwithstanding any purported appropriation to the contrary by the Buyer.

7.6 Until title in the Goods has passed in accordance with clause 7.2, the Buyer's right to possess the Goods and the licence to use or sell the Goods shall terminate immediately, if:

7.6.1 the Buyer convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory), except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, or administrator or administrative receiver, appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer, or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer;

7.6.2 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it; or

7.6.3 the Buyer is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or ceases to trade.

7.7 The Buyer shall not pledge or, in any way, charge by way of security for any indebtedness, any of the Goods which are the property of the Company.

7.8 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises owned, occupied, or controlled by the Buyer where the Goods are situated or stored, or may be stored, in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

7.9 Without prejudice to the other rights of the Company, if the Buyer fails to comply with clauses 7.3 or 7.4 all sums owing by the Buyer to the Company shall immediately become due and payable.

7.10 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

7.11 Should the Company repossess any Goods or the Buyer delivers up any Goods in accordance with this clause 7 the contract in respect of those particular Goods is rescinded.

7.12 The Company shall be entitled to recover payment of the Price for the Goods (plus VAT) notwithstanding the fact that that title in the Goods has not passed from the Company to the Buyer.

7.13 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights in this clause 7 shall remain in effect.

8 BUYER'S OBLIGATIONS AND WARRANTIES

8.1 The Buyer shall pay the Price and any other amounts due under the contract and these conditions.

8.2 The Buyer warrants that it has the necessary authority to enter into the contract. The Buyer warrants that all the information provided to the Company is true and accurate and acknowledges that the Company is relying upon such information in relation to the provision of the Goods and/or Services.

8.3 The Buyer shall at its sole expense:

8.3.1 co-operate fully with the Company and provide any assistance required to supply the Goods and/or Services;

8.3.2 provide adequate and appropriate equipment and suitably trained and competent personnel at the Delivery Point to unload and load the Goods, and any other materials, necessary to perform the Services including a representative who will sign a delivery note to confirm that the Goods are as ordered and undamaged;

8.3.3 provide in the case of deliveries made by the Company, adequate space to receive the quantity of Goods ordered;

8.3.4 provide a suitable lock-up for safe storage of all Company Equipment brought to the Delivery Point by the Company;

8.3.5 provide the Company in a timely manner with all information, documents and materials, reasonably required by the Company to enable the Company to deliver the Goods and/or perform the Services in accordance with these conditions including, but without limitation, all information relating to the hazards and risks to the Company at the Buyer's premises;

8.3.6 take such steps as the Company requires to prepare the Buyer's site/premises for delivery of Goods and/or supply of the Services including but not limited to:

8.3.6.1 determining the position and location of the Goods prior to the arrival of the Company's personnel;

8.3.6.2 ensuring that the concrete of the flooring and any surface onto which the Goods are to be affixed is sound, even and is in accordance with the Company's recommendations;

8.3.6.2(i) For new builds, where the age of a building or structure, excluding car parks, is less than 36 months old we do not require that a pull-out test be conducted. This would be based on receipt of structural information stating the concrete quality, pad and steel re-enforcement depth.

8.3.6.2 (ii) For existing builds, where the age of a building or structure, excluding car parks, is 36 months or greater we may request that a pull-out test be carried out. This will be deemed necessary where no structural information can be provided, or upon visual inspection of the slab, noticeable damage is seen.

8.3.6.2 (iii) For all car park installations, irrespective if they are new build, existing or refurbishments, a pull-out test is required.

8.3.6.2 (iv) All pull-out test costs are to be borne by the customer irrespective whether the test is carried out by the Company or a third party. If a third party carries out the test a report must be submitted to the Company for review.

8.3.6.3 removing any existing barrier or other products that would prevent or hinder the performance of the Services;

8.3.6.4 providing sufficient personnel and equipment to safely unload the Goods from any vehicle used to transport them;

8.3.7 carry out all reasonable instructions of the Company on all matters required to be undertaken in respect of the Goods and/or Services;

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- 8.3.8 not to do anything, or omit to do anything, which could or would detrimentally affect the Goods and/or the performance of the Services;
- 8.3.9 provide the Company, its agents, subcontractors, consultants and employees in a timely manner and at no charge, with access at all reasonable times and otherwise as requested by the Company to its site or premises and other facilities as reasonably required by the Company to allow the Company to supply the Goods and/or Services;
- 8.3.10 inform the Company of all health and safety rules and regulations and any other reasonable security requirements that apply at the Delivery Point and any of the Buyer's premises where Services will be performed;
- 8.3.11 obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services; and
- 8.3.12 ensure that the Company and its employees, agents, and sub-contractors are always subject to a safe working environment.
- 8.4 If the Company's performance of its obligations under the contract is prevented or delayed by any act or omission of the Buyer, its agents, subcontractors, consultants or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Buyer arising directly or indirectly from such prevention or delay.
- 8.5 The Buyer shall be liable to pay the Company, on written demand, for, and indemnify the Company against, all reasonable costs, expenses, charges and losses sustained or incurred by the Company (including, but not limited to, any direct, indirect or consequential losses, loss of profit, loss of reputation, loss or damage to property, loss of opportunity to deploy resources elsewhere, legal costs on an indemnity basis, and those arising from injury to, or death of, any person) arising directly or indirectly from the Buyer's fraud, negligence, breach or failure to comply, or delay in complying, with any of these conditions.
- 8.6 The Buyer shall not, without the prior written consent of the Company, at any time from the date of the Contract to the expiry of 12 months after the last date of supply of the Services, solicit or entice away from the Company or employ (or attempt to employ) any person who is, or has been, engaged as an employee, consultant or subcontractor of the Company in the provision of the Services.
- 8.7 Any consent given by the Company in accordance with clause 8.6 shall be subject to the Buyer paying to the Company a sum equivalent to 25% of the then current annual remuneration of the Company's employee, consultant or subcontractor or, if higher, 25% of the annual remuneration to be paid by the Buyer to that employee, consultant or subcontractor.

9. WARRANTIES

- 9.1 The Company warrants that it has title to and unencumbered right to sell the Goods.
- 9.2 All products manufactured by the Company will be free of defects in material and workmanship for a period of twenty-four months from date of delivery as set out in the Company's warranty documentation. Extended warranties may be available subject to their terms as set out in the Company's warranty documentation.
- 9.3 Any Goods replaced, whether under these conditions or any warranty provided, shall belong to the Company.
- 9.4 The Company may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that it seeks to restrict such changes to have the minimum effect on the nature, scope of, or the charges for the Services. If the Company requests a change to the scope of the Services for any other reason, the Buyer shall not unreasonably withhold or delay consent to it.
- 9.5 If the Company install your barrier, under normal use, the installation warranty will be for a period of twelve months from the date the barrier is installed as set out in the Company's warranty documentation.
- 9.6 The Buyer acknowledges that it has not relied on any written or oral statement, promise or representation made or given by, or on behalf of, the Company which is not set out in the contract.

10 COMPANY'S OBLIGATIONS

- 10.1 The Company warrants that the Services will be provided with reasonable skill and care and will comprise as the case may be:
- 10.1.1 when fixing posts, using SDS hammer drills and drilling 4 holes per post; and
- 10.1.2 disposing safely of, and in accordance with applicable environmental legislation, any products and materials removed from the Delivery Point.
- 10.2 Where the Company is not the manufacturer of the Goods, the Company shall endeavour (but does not guarantee to) transfer to the Buyer the benefit of any warranty or guarantee given to the Company by the relevant manufacturer.
- 10.3 The Company shall use reasonable endeavours to observe all health and safety rules and regulations, and any other reasonable security requirements that apply at any of the Buyer's premises and that have been communicated to it under clause 8.3.10, provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.

11. LIABILITY

- 11.1 Each of the sub-clauses of this clause is to be treated as separate and independent.
- 11.2 No liability is accepted for defects caused by abnormal use, misuse or neglect, installation undertaken by third parties, barriers that have sustained an impact or vandalism.
- 11.3 The risk of accidental loss whilst the Goods are being returned will be borne by the Buyer.
- 11.4 The Buyer agrees that apart from those terms set out expressly in these conditions, no other terms whether conditions, warranties or in nominate terms, express or implied, statutory or otherwise shall form part of this contract.
- 11.5 Subject to clauses 6, 9, and 10, clause 11 sets 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 Buyer in respect of any breach of these conditions, any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods, any use made by the Buyer of the Services, and any representation, statement, tortious act or omission, including negligence, arising under or in connection with the contract.
- 11.6 Subject to clauses 11.7 and 11.8:
- 11.6.1 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 Price; and
- 11.6.2 the Company shall not be liable to the Buyer for any direct, indirect or consequential loss or damage (whether for pure economic loss; or loss of profit; or loss of business; or depletion of goodwill and/or similar losses; or loss of anticipated savings; or loss of goods; or loss of contract; or loss of use; or loss or corruption of data or information; or otherwise), or any other claims for consequential compensation whatsoever, and howsoever caused, which arise out of or in connection with a contract.
- 11.7 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the contract.
- 11.8 Nothing in these conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or for fraud or fraudulent misrepresentation or for any liability incurred by the Buyer as a result of any breach by the Company of the condition as to title or the warranty as to quiet





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possession implied by section 2 of the Supply of Goods and Services Act 1982 or for any matter which it would be illegal or unlawful for the Company to exclude or attempt to exclude its liability.

12. FORCE MAJEURE

12.1 The Company shall not be liable for any failure to deliver the Goods or perform the Services arising from circumstances outside the Company's reasonable control including, without limitation, act of God, war, riot, explosion, abnormal weather conditions, fire, flood, strikes, lock-outs, epidemic, pandemic, disease outbreak, Government action or regulations (UK or otherwise), delay by suppliers, accidents and shortages of materials, labour or manufacturing facilities.

12.2 Should the Company be prevented from delivering or performing in the above circumstances it shall give the Buyer written notice of this fact as soon as reasonably practicable after discovering it.

12.3 If the circumstances preventing delivery or performance are still continuing six months after the Company serves notice pursuant to clause 12.2 then either party may give written notice to the other cancelling the contract in accordance with clauses 2.6 and 2.7.

13. SALES PROMOTION DOCUMENTATION

13.1 Whilst the Company takes every precaution in the preparation of its catalogues, technical circulars, price lists and its other literature these documents are for the Buyer's general guidance only and the particulars contained therein shall not constitute representation by the Company and the Company shall not be bound thereby.

14. NOTICE

14.1 Any notice to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its address specified on the order acknowledgement or such other address as that party may from time to time notify in writing and shall be deemed to have been served if sent by post 48 hours after posting.

15. ASSIGNMENT

15.1 Neither the Company nor the Buyer shall assign or transfer or purport to assign or transfer a contract or the benefits thereof to any other person without the prior written consent of the other.

16. CONFIDENTIALITY

16.1 The Buyer shall keep secret and confidential all business, technical, financial or other information, including materials, ideas, designs and know-how created or provided by the Company pursuant to any contract (in whatsoever form, whether or not marked as confidential, together with all and any copies or other record made of such information in whatsoever form, whether or not susceptible to any other form of legal protection) and shall not disclose or make available such information or part thereof to any third party (except to its own employees and advisers and then only on a need to know basis) without the Company's prior written consent.

16.2 The obligation of confidence set out in this clause 16 shall not apply to any information relating to the products which the Company has made publicly available, including, but not limited to, including the same in its advertising and marketing materials.

17. INTELLECTUAL PROPERTY

17.1 Nothing in these conditions or any contract shall act to assign or licence any of the Company's Intellectual Property Rights to the Buyer.

18. HEADINGS

18.1 The headings of these conditions are for convenience only and shall have no effect on the interpretation thereof.

19. PROPER LAW AND JURISDICTION

19.1 All contracts and these conditions shall be governed by and construed in accordance with English Law and all documents arising in connection with a contract shall be submitted to the jurisdiction of the English Courts.

19.2 Where the Buyer's address or the Delivery Point are outside England and Wales, the place of performance of a contract shall be England.

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