

## Terms & Conditions of Sale

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### 1. Interpretation

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

**"Affiliate"** means with respect to a specified entity, (i) an entity that directly or indirectly, through one or more intermediaries, owns more than 50% of the outstanding voting securities of another entity, and (ii) an entity that directly or indirectly through one or more intermediaries, is controlled by another entity, in each case where the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract interest or otherwise.

**"Conditions"** means the conditions set out below and in the Order Acknowledgement. Where any terms below conflict with any terms in the Order Acknowledgement the terms in the Order Acknowledgement will take precedence.

**"Contract"** means any contract between the Supplier and the Customer for the sale of any Works.

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

**"Customer Related Personal Data"** may include contact details, such as name, surname, email address, professional phone number and postal address, as well as bank account details if contacted in an individual capacity and may relate to the Customer and the Customer's employees and agents or may otherwise be communicated by the Customer to the Supplier.

**"Customer's Property"** means any Goods returned by the Customer to the Supplier (which are found to be NDF under Clause 11.6.2 or any specifications, drawings, designs, packagings, equipment, goods, materials, instructions, approvals or information supplied by or on behalf of the Customer to the Supplier in connection with the Works).

**"EEE"** means electrical and electronic equipment, regulated by the WEEE Regulations.

**"Goods"** means any goods or materials which the Supplier agrees to provide to the Customer.

**"Hazardous Substances Laws and Regulations"** means any laws and regulations made pursuant to EU Directives 2002/95/EC and 2011/65/EC as amended from time to time.

**"IPR"** means all Confidential Information, patents, trade marks and service marks, rights in designs, trade or business names, copyright (including rights in computer software), database rights and topography rights (whether or not any of these is registered and including applications for registration of any such thing) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world.

**"Order Acknowledgement"** means the written acknowledgement of and acceptance by the Supplier of the Customer's request to purchase any Works.

**"Product Guarantees"** means the written product guarantees, if any, which may provide certain additional rights to the Customer and which may be provided by the Supplier in relation to certain Works.

**"Services"** means any work and/or services which the Supplier agrees to provide to the Customer.

**"Supplier"** means each and any of the following and their respective Affiliates:

Scolmore (International) Limited (company number 02513009) whose registered office address is at Scolmore House, Mariner, Lichfield Road Industrial Estate, Tamworth, Staffordshire, England, B79 7UL;

Unicrimp Limited (company number 08788911) whose registered office address is at Scolmore House, Mariner, Lichfield Road Industrial Estate, Tamworth, Staffordshire, England, B79 7UL;

Ovia Limited (company number 11033089) whose registered office address is at Scolmore House, Mariner, Lichfield Road Industrial Estate, Tamworth, Staffordshire, England, B79 7UL; and Elite Security Products Limited (company number 02769392) whose registered office address is at Unit 7 Target Park, Shawbank Road, Lakeside, Redditch, Worcestershire, B98 8YN.

**"WEEE"** means waste electrical and electronic equipment, regulated by the WEEE Regulations.

**"WEEE Laws and Regulations"** means the Waste Electrical and Electronic Equipment (WEEE) Regulations 2013 and any laws in any territory made pursuant to EU Directive 2002/96/EC, as amended from time to time.

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

**1.2.** The words "agreed in writing" will mean expressly agreed in writing and signed by a director of the Supplier.

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

**1.4.** The Supplier reserves the right at anytime without liability to correct any clerical, typographical or other similar errors or omissions made by its employees.

### 2. Quotations

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

**2.2.** Unless otherwise agreed in writing any quotation is valid only for a period of 24 hours from its date of issue provided that the Supplier has not previously withdrawn it by written or oral notice to the Customer.

### 3. Application of Terms

**3.1.** (Subject to Clause 3.4) these Conditions are the only conditions on which the Supplier is prepared to deal with the Customer and they will govern the Contract and all of the Supplier's future supplies to the Customer.

**3.2.** No terms, conditions or warranties endorsed upon, delivered with, referred to or stipulated or contained in any purchase order or other similar document delivered or sent by the Customer to the Supplier will form part of the Contract.

**3.3.** Any reference in the Order Acknowledgement to the Customer's purchase order or other similar document will not be deemed to imply that any terms, conditions or warranties endorsed upon, delivered with, referred to, stipulated or contained in such purchase order or other similar document will form part of the Contract.

**3.4.** No employee or agent of the Supplier has authority to vary these Conditions orally. No variation to, waiver of or addition to these Conditions or any representation about the Works will have any effect unless it is agreed in writing and contains a specific reference to these Conditions and is signed on the Supplier's behalf by a director of the Supplier.

**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 Supplier until an Order Acknowledgement is issued by the Supplier or (if earlier) the Supplier supplies the Works to the Customer.

**3.7.** The Customer must ensure that the content of its order and any applicable specification are complete and accurate.

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**3.8.** Unless otherwise agreed in writing all drawings, illustrations, descriptions, specifications, technical data, advertising and other similar information issued by the Supplier or contained on the Supplier's Website or in the Supplier'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 will not form part of the Contract.

**3.9.** Any purchase order which has been accepted by the Supplier in accordance with Clause 3.6 may only be cancelled, postponed or varied by the Customer with the prior written consent of the Supplier and on terms that the Customer will indemnify the Supplier in full against all losses (including but not limited to loss of profit), costs (including but not limited to inventory and other commitments made by the Supplier as a result of such purchase order), damages, charges and expenses incurred (directly or indirectly) by the Supplier as a result of such cancellation, postponement or variation.

### 4. Delivery

**4.1.** Any times specified or agreed by the Supplier for the delivery of the Works are given in good faith but are an estimate only. The Supplier will use its reasonable endeavours to deliver the Works within the times specified or otherwise agreed and if no time is specified or agreed by the Supplier delivery will take place within a reasonable time. The time for the delivery of the Works will not be of the essence of the Contract.

**4.2.** (Subject to the provisions of Clause 4.3) the Customer will collect the Works from the Supplier's place of business and delivery will be deemed to take place when the Supplier notifies the Customer that the Works are ready for collection and unless otherwise agreed in writing the Customer will collect the Works within 3 working days of the issue of such notice.

**4.3.** If the Supplier agrees to deliver the Works then subject to Clause 4.4 delivery will be deemed to take place when the Works are delivered to the Customer at the place stated in the Supplier's Order Acknowledgement or such other place as the parties may agree except that delivery to a carrier for the purpose of transmission to the Customer will be deemed to be delivery to the Customer and sections 32(2) and (3) of the Sale of Goods Act 1979 will not apply.

**4.4.** Subject to Clause 4.3 the Supplier will make such arrangements for the carriage and insurance of the Works as it thinks appropriate but the Customer will indemnify the Supplier against any costs or expenses the Supplier incurs as a result of such carriage and insurance (including but not limited to export and/or import duties and any costs of packing, loading and/or unloading) such costs and/or expenses to be paid by the Customer when it is due to pay for the Works.

**4.5.** The Supplier will use reasonable endeavours to ensure where necessary that the Works will be packed so as to be adequately protected against damage in normal conditions of transit of usual duration.

**4.6.** The Supplier 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 by the Supplier (howsoever caused) in respect of one or more instalments will not entitle the Customer to terminate the relevant Contract as a whole.

**4.7.** In the event of any delay in the delivery of any Goods and/or the performance of any Services which are attributable to any act or omission by the Customer.

**4.7.1.** delivery of the Goods and/or performance of the Services will be deemed to have taken place at the time which but for such delay, delivery or performance it would have taken place

and any extra costs (including but not limited to storage and insurance costs) incurred as a result of such delay will be added to the Contract price and paid by the Customer; and

**4.7.2.** The Supplier may sell or otherwise dispose of such Goods (as it sees fit) 28 days after such delay and deduct any monies payable to the Supplier by the Customer from the sale proceeds and account to the Customer for any excess or charge the Customer for any shortfall.

**4.8.** Where the Works are to be supplied from stock such supply is subject to the availability of the stock at the date of intended dispatch.

**4.9.** On delivery to the Customer all Works should be examined by the Customer. The Supplier will not be liable for any damage to or any shortages in or non-delivery of the Works (even if caused by the Supplier's negligence) unless the same is notified in writing by the Customer to the Supplier (together with all relevant details) within 48 hours of the actual or anticipated date of delivery (as appropriate). Any damage to or any shortages in or non-delivery of part of the Works will not affect the Contract in respect of the other parts of the Works.

**4.10.** Subject to a notice being provided in accordance with Clause 4.9 the Supplier will, if it is reasonably satisfied that any Works have not been delivered as a result of the Supplier's fault (in its sole discretion) either arrange for delivery as soon as reasonably possible or (where the Contract price has been invoiced) give credit (at the pro rata Contract price) to the Customer for such Works.

**4.11.** If the Supplier complies with Clause 4.9 it will (subject to Clause 13.2) have no further liability (in contract, tort (including but not limited to negligence) or otherwise) for such shortages or non-delivery.

**4.12.** The Customer will (at its own expense) provide such advice, assistance and information as may be required to enable the Supplier to perform its obligations under this Contract.

### 5. Risk and Ownership

**5.1.** The Customer acknowledges that before entering into this Contract it has expressly represented and warranted that it is not insolvent and has not committed any act of bankruptcy, or being a company with limited and unlimited liability, knows of no circumstances which would entitle any debenture holder or secured creditor to appoint a receiver, to petition for winding up of the Customer or exercise any other rights over or against the Customer's assets.

**5.2.** (Unless otherwise agreed in writing) the Goods are at the risk of the Customer from the time of delivery or deemed delivery (as appropriate) to the Customer in accordance with these Conditions 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.

**5.3.** (Notwithstanding that risk in the Goods will pass to the Customer in accordance with the provisions of clause 5.2) ownership of the Goods (both legal and equitable) will remain with the Supplier (unless ownership is properly vested in some other person by the operation of any statute) until the Supplier has received in full (in cash or cleared funds):

**5.3.1.** All sums due in respect of the Goods; and

**5.3.2.** All other sums which are or which become due to the Supplier from the Customer on any account.

**5.4.** Until ownership of the Goods has passed to the Customer under Clause 5.3, the Customer will:

**5.4.1.** Hold the Goods on a fiduciary basis as the Supplier's bailee;

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**5.4.2.** Keep the Goods free from any charge, lien or other encumbrance;

**5.4.3.** Store the Goods (at no cost to the Supplier) separately from all other goods or materials of the Customer or any third party in such a way that they remain readily identifiable as the Supplier's property and easily accessible to the Supplier;

**5.4.4.** Not destroy, deface or obscure any identifying mark on the Goods or their packaging;

**5.4.5.** Maintain the Goods in a satisfactory condition;

**5.4.6.** Insure the Goods on the Supplier behalf for their full price or replacement value (whichever is the greater) against all usual risks and to the reasonable satisfaction of the Supplier and on request produce such policy of insurance to the Supplier;

**5.4.7.** Hold all proceeds of the insurance referred to in clause 5.4.6 on trust for the Supplier and not mix it with any other money or pay the proceeds into any overdrawn bank account; and

**5.4.8.** Allow the Supplier access at any reasonable time to enable the Supplier to verify that the Customer has complied with its obligations under this Clause 5.4.

**5.5.** 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 at full market value and will be a sale, use or disposition of the Supplier's property on the Customer's own behalf and the Customer will deal as principal when making such sale, use or disposition.

**5.6.** Once payment becomes due, the Supplier may while the owner of the Goods (without prejudice to its other rights) demand the immediate return of the Goods at any time and the Customer must comply with (and bear the cost of) such demand immediately. If the Customer fails to return such Goods, the Customer grants to the Supplier or its successors in title, and their respective employees and agents, an irrevocable license to enter the Customer's premises (with or without vehicles) to remove the Goods (the cost of which shall be borne by the Customer) and may sell or otherwise deal with the Goods.

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

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

### 6. Good Stocked Against Anticipated Orders

By arrangement between the Supplier and the Customer, and at the Supplier's entire discretion, Goods may be stocked by the Supplier against anticipated future purchase orders for such Goods from the Customer. In all such cases:

**6.1.** The maximum period for which such goods shall be retained by the Supplier ("the Maximum Period") shall be as agreed between the Supplier and the Customer or, where no specific arrangement has been reached for the maximum period for which the Goods are retained by the Supplier, such period shall be deemed to be 6 calendar months.

**6.2.** All Goods remaining retained at the end of the Maximum Period shall, at such date, be deemed to have been the subject of a purchase order on that date from the Customer to the Supplier and which has been the subject of an Order Acknowledgement for prompt delivery to the Customer. Payment will be required in accordance with Clause 7.

### 7. Price and Payment

**7.1.** The price for the Works will be the price set out in the Order Acknowledgement (or otherwise agreed in writing) between the parties.

**7.2.** Each price is based on the scope of the Works and the instructions and information provided by the Customer. The Supplier reserves the right (in its absolute discretion) to amend the price to cover any increase in cost which may arise as a result of additional Works being requested by the Customer (and agreed by the Supplier) or additional or incomplete instructions or information being provided by the Customer.

**7.3.** 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 is ruling at the date of invoice.

**7.4.** (Unless otherwise agreed in writing and subject to circumstances in which free delivery may be available as set out in this Clause 7.4) 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. Works may qualify for free delivery, depending on the designation of the Customer and the volume of Works ordered in a given period. Further details may be obtained from the Supplier's Sales Office.

**7.5.** Where the Supplier agrees (in its discretion) to bring forward the date of delivery of the Works at the Customer's request any additional costs reasonably incurred by the Supplier shall be charged to the Customer in addition to the Contract price.

**7.6.** The Supplier 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 Supplier may submit its invoice at any time after the Works are ready for delivery or would have been ready but for such request or default on the part of the Customer.

**7.7.** (Unless otherwise agreed in writing) where the terms for payment in the Order Acknowledgement show "COD", the Supplier will not be bound to deliver the Goods until the Customer has paid the price for them. Payment shall be due before the Delivery Date.

**7.8.** (Unless otherwise agreed in writing) where the terms for payment in the Order Acknowledgement show "Net", payment of the price will be due on the date when the period as specified in the Order Acknowledgement expires.

**7.9.** Where no terms for payment are set out in the Order Acknowledgement or otherwise agreed in writing payment of the price will be made within 30 days from the date of delivery of the Works.

**7.10.** No payment will be deemed to have been received until the Supplier has received cleared funds.

**7.11.** Time for payment will be of the essence of the Contract and the Customer will indemnify the Supplier against all reasonable expenses, debt recovery fees, Court fees, solicitor's fees and disbursements incurred by the Supplier in recovering overdue amounts.

**7.12.** All payments payable to the Supplier under the Contract will become due immediately on termination of this Contract notwithstanding any other provision of these Conditions.

**7.13.** 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 valid court order requiring an amount equal to such deduction to be paid by the Supplier to the Customer.

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**7.14.** The Supplier may (but will not be obliged) at any time or times without notice to the Customer set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer (in either case howsoever arising and whether such liability is present, future, liquidated or unliquidated). The Supplier and Customer agree that in exercising this right to set off, the Supplier shall be doing no more than discharging its own liability by the application of its own asset. Any exercise by the Supplier of its rights under these Conditions will be without prejudice to any other rights or remedies available to the Supplier under these Conditions or otherwise.

**7.15.** If the Customer fails to pay the Supplier any sum due pursuant to the Contract the Customer will, subject to Clause 7.16, be liable to pay interest to the Supplier on such sum from the due date for payment at an annual rate of 4% above the base lending rate of HSBC Bank plc from time to time accruing on a daily basis until payment is made in full (whether before or after any judgement).

**7.16.** As an alternative to its remedy in Clause 7.15 the Supplier reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

**7.17.** Without prejudice to the provision of Clauses 7.14 and 7.15 if the Customer fails or the Supplier reasonably believes that the Customer will fail to pay for the Work or any other work under any other contract when due the Supplier may:

**7.17.1.** Demand payment of all outstanding balances whether due or not under this Contract or any other contract between the Customer and the Supplier;

**7.17.2.** Treat the Contract or any other contract between the Customer and the Supplier as repudiated by the Customer;

**7.17.3.** Suspend any future performance of the Contract or any other contract between the Customer and the Supplier until all overdue sums have been paid; or

**7.17.4.** Appropriate any payments made by the Customer to such of the Works (or such works supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer).

### 8. Credit Limits/Credit Accounts

**8.1.** The Supplier shall set limits on the value of Works the Customer may order at any time and the total liability of the Customer to the Supplier from time to time ("**Credit Limit**" under a "**Credit Account**").

**8.2.** The agreement by the Supplier to provide a Credit Account and the provision of any Credit Limit shall be entirely at the Supplier's discretion and shall be subject to the provision by the Customer of such information as the Supplier may from time-to-time request in such form as the Supplier shall specify from time to time. The Supplier may raise, lower or remove any Credit Limit and/or Credit Account at its entire discretion at any time.

**8.3.** The existence of any Credit Limit or Credit Account and the use of the terms "Credit Limit" and "Credit Account" shall not in any way affect the due date for payment by the Customer for Works or the liability of the Customer for interest on sums due, in each case as set out in Clause 7.

### 9. Product Guarantees

**9.1.** Product Guarantees (if provided) shall be subject to their own terms which the Customer acknowledges that it must strictly adhere to, otherwise the benefit of the Product Guarantee may be lost.

**9.2.** The Supplier may withdraw or amend the terms of any Product Guarantees relating to any Works at any time. Such withdrawals or amendments will apply to all purchase orders

accepted by the Supplier following the date of such withdrawals or amendments regardless of whether the Customer has received notice of such withdrawals or amendments.

**9.3.** Product Guarantees are personal to the Customer and the benefit of any Product Guarantees may not be assigned by the Customer to any person.

### 10. Quality

**10.1.** The Customer acknowledges that the Supplier is not the manufacturer of the Goods and may not itself perform any or all of the Services and that the Supplier's expertise is in the sourcing of the Works only. The Customer acknowledges that as an intermediate supplier of the Goods the Supplier only checks the external packaging of the Goods for obvious signs of damage and does not in any way inspect the quality or condition of the Goods themselves.

**10.2.** The Customer acknowledges that the manufacturer of the Works typically provides warranty assurances directly for the benefit of end users of the Works.

**10.3.** The Customer acknowledges that the Supplier does not hold itself out as having any particular expertise in relation to the actual Works and the Customer agrees that it relies entirely on its own skill and judgement in evaluating the suitability and fitness of the Works for its purpose.

**10.4.** The Customer acknowledges that the prices charged by the Supplier for the Works are based strictly on the quality assurances set out in this Clause 10.

**10.5.** Based on the acknowledgements set out in this Clause 10 the Supplier will:

**10.5.1.** Use its reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given to the Supplier;

**10.5.2.** Comply with its returns policy as set out in Clause 11; and

**10.5.3.** (where the Supplier itself performs the Services rather than procuring a third party to perform the Services to the Customer on behalf of the Supplier) perform the Services with reasonable skill and care.

**10.6.** The Customer agrees that the Supplier will not (subject to Clauses 10.5 and 13.1) be responsible for or give any warranties in relation to the quality or suitability of the Works save for any Product Guarantees and that provided the Supplier complies with the provisions of Clause 10.5 the Supplier will (subject to Clause 13.2) have no further liability (in contract, tort (including but not limited to negligence) or otherwise) for any quality or suitability claims in relation to the Works.

### 11. Returns Policy

**11.1.** Any Goods to be returned by the Customer to the Supplier will only be dealt with by the Supplier in accordance with the provisions set out in this Clause 11.

**11.2.** Where the Customer wishes to return any Goods (for any reason) the Customer should first contact the Supplier's Sales Office.

**11.3.** Returns Authorisation Number ("RAN"). An RAN must be obtained from the Supplier's Customer Service Office before any return will be processed in accordance with this Clause 11. Goods returned without a valid RAN are likely to be rejected by the Supplier (see Clause 11.9 below). RANs are valid for 10 days from the date of issue. If the Goods are not returned within 10 days the RAN will be cancelled and a new RAN must be requested if the Customer still wishes to return the Goods. When preparing the Goods for return the Customer must ensure that a debit note is included which is consistent with the RAN and which clearly states the RAN on its face.



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**11.4.** Unwanted Goods: Unwanted Goods are the responsibility of the Customer. The Customer acknowledges that the Supplier is under no obligation to accept the return of unwanted Goods but that the Supplier may accept the return of unwanted Goods, at its entire discretion, within 1 month of receipt by the Customer. If the Supplier agrees to accept the return of unwanted Goods then, unless otherwise agreed, a handling/restocking fee of 20% will be invoiced. If unwanted Goods are returned to the Supplier without the Supplier's agreement, such Goods will be treated in accordance with Clause 11.9.

**11.5.** Returns Due to Late Delivery: Returns due to late delivery must be requested within 24 hours of the due delivery date. The original purchase order must contain details of any cut-off delivery date and the Supplier must agree in writing that a deadline for delivery had been accepted by the Supplier. If the Supplier has accepted such deadline the Supplier will at its own cost arrange for the collection of goods falling into this category.

**11.6.** Defective On Arrival ("DOA") Goods:

**11.6.1.** DOA Goods are those which have a fault on delivery. The fact that there is a fault must be confirmed by someone with technical knowledge and the Customer must provide as much specific technical detail as is reasonably possible. DOA Goods must be notified within 14 days of delivery of the Goods in order to qualify for credit or replacement (at the Supplier's option and in the Supplier's absolute discretion). The packaging of the Goods must be in pristine condition and, unless otherwise agreed, if it is not then the Customer will be subject to a 20% handling/restocking fee. The Supplier shall arrange for and shall bear the carriage cost of collecting the Goods. If the Customer returns the Goods to the Supplier, then the Customer shall bear the carriage costs of so doing, unless otherwise agreed with the Supplier.

**11.6.2.** No Defect Found ("NDF"). If Goods are returned and are found to be of NDF status they shall be treated as unwanted Goods under Clause 11.4.

**11.7.** Goods Returned Not In Original Condition. Goods returned where the packaging and/or contents is found not to be in its original condition are likely to be rejected on arrival. Should the Supplier agree to accept such Goods (in its absolute discretion) the Supplier reserves the right to impose an additional handling/re-stocking fee of 20% of the original sale value of the Goods. Should items be damaged in transit during its return to the Supplier it is the responsibility of the Customer (and not the Supplier) to take this matter up with the carriers.

**11.8.** Packaging and Labelling. Where possible, the packaging of the Goods being returned should be protected by using an outer cover. The Customer should not write on, or attach labels, to the packaging itself if this can be avoided. When preparing the Goods for return the Customer should ensure that the RAN is easily visible on the debit note and all other return related paperwork accompanying the Goods and in related communications.

**11.9.** Any Goods returned otherwise than in accordance with the foregoing provisions and any Goods which are NDF and not agreed by the Supplier as being eligible for return under Clause 11.4 shall be either rejected by the Supplier or, at its discretion, stored for no longer than 14 days by the Supplier and the Customer must arrange for collection of such Goods in such period, failing which, the Supplier shall be entitled to dispose of such Goods without compensation or payment to the Customer.

**11.10.** Overdue Accounts. The Supplier may, at its discretion, refuse returns from any Customer whose account is overdue.

**11.11.** The Supplier will not be obliged to comply with any of the provisions in this Clause 11 in relation to allegedly faulty Goods unless:

**11.11.1.** (where the Goods are faulty and the fault is apparent on reasonable inspection) the Customer gives written notice of the fault to the Supplier within 7 days of the date of delivery of the Goods; and

**11.11.2.** (where the Goods are faulty and fault is not apparent on reasonable inspection) the Customer gives written notice of the fault to the Supplier within 7 days of the date when the Customer discovers or ought reasonably to have discovered the fault.

**11.12.** Notwithstanding any other provision of this Clause 11 if the Goods are found to be faulty but:

**11.12.1.** The fault arises as a result of the Customer's or any other person's negligence;

**11.12.2.** The fault arises as a result of fair wear and tear or abnormal working conditions;

**11.12.3.** The fault arises as a result of any misuse, physical damage (including but not limited to faulty installation, dropping, spillage or foreign objects) or accident (unless the Supplier is directly responsible for such);

**11.12.4.** The Customer or any other person makes any further use of the Goods after giving written notice of a fault;

**11.12.5.** The fault arises because the Customer or any other person has failed to follow the Supplier's or the manufacturer's instructions (whether oral or in writing) as to the storage, assembly, use, installation, handling or maintenance of the Goods or (if there are none) good trade practice;

**11.12.6.** The fault arises as a result of any testing or commissioning of the Goods performed by the Customer or any other person;

**11.12.7.** The fault arises as a result of any alteration, servicing or repair of the Goods not made by the Supplier; or

**11.12.8.** The Customer acknowledges that the Contract states that the Goods are sold in their actual state without warranty; then the Customer acknowledges that the Supplier is not obliged to comply with its obligations under this Clause 11, and that the Supplier reserves the right to apply a reasonable labour charge to the Customer without completing any repair and the Supplier reserves the right to retain the Goods until a purchase order is received covering the labour charge and the return freight cost.

## 12. Ethical Trading and Compliance with Laws

**12.1.** The Customer shall, and shall ensure that its directors, officers, employees, agents and any other third parties that perform services on its behalf shall comply with all applicable laws and regulations relating to:

**12.1.1.** Anti-bribery and anti-corruption including but not limited to the Bribery Act 2010, and shall not, in particular, offer, promise or agree to give any financial or other advantage to: (i) any official or employee of (or person acting in an official capacity on behalf of) any government, governmental or regulatory agency or other public body in return for such person assisting, either directly or indirectly, in obtaining or retaining business for the Customer, or (ii) any other person as an inducement or reward for the improper performance of any function or activity in relation to obtaining or retaining business for the Customer;

**12.1.2.** All aspects of the Modern Slavery Act 2015; and

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**12.1.3.** The storage, use, handling, installation, registration and labelling of all Goods as from their delivery and the disposal of all wastes and residues (including packaging) resulting from the Customer's use of the Goods.

### 13. Limitation of Liability

**13.1.** 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 but subject always to the provisions of Clause 16.2) are, to the fullest extent permitted by law, excluded from the Contract.

**13.2.** Nothing in these Conditions exclude or limit the liability of the Supplier for fraudulent misrepresentation or for any death or personal injury caused by the Supplier's negligence.

THE CUSTOMER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CLAUSES 13.3 AND 13.4

**13.3.** (Subject to Clauses 13.1 and 13.2) the Supplier will not be liable to the Customer in contract, tort (including but not limited to negligence), misrepresentation or otherwise for any:

**13.3.1.** Economic loss of any kind (including but not limited to loss of use, profit, anticipated profit, business, contracts, overhead recovery, machining costs, revenue or anticipated savings);

**13.3.2.** Any damage to the Customer's reputation or goodwill;

**13.3.3.** Any product recall or business interruption costs: or

**13.3.4.** Any other special, indirect or consequential loss or damage (even if the Supplier has been advised of such loss or damage) arising out of or in connection with the Contract.

**13.4.** (Subject to the provisions of clause Clauses 13.1, 13.2 and 13.3) the Supplier's total liability in contract, tort (including but not limited to negligence), misrepresentation or otherwise arising out of or in connection with this Contract will be limited to the Contract price.

**13.5.** The provisions of this Clause 13 shall survive the termination or expiry (for whatever reason) of this Contract.

**13.6.** THE PRICES CHARGED FOR THE WORKS ARE BASED STRICTLY ON THE UNDERSTANDING OF ACCEPTANCE BY THE CUSTOMER OF THE PROVISIONS IN THE CONTRACT FOR THE LIMITATION OF THE SUPPLIER'S LIABILITY. SHOULD THE CUSTOMER REQUIRE THE SUPPLIER TO ACCEPT ADDITIONAL LIABILITY THIS MAY BE DISCUSSED BETWEEN THE PARTIES AND THE PRICE INCREASED ACCORDINGLY.

### 14. The Customer's Property

**14.1.** While the Supplier will take reasonable care of the Customer's Property whilst it is in the Supplier's possession, control or custody the Customer's Property will (unless otherwise agreed in writing) remain at the Customer's risk and responsibility.

**14.2.** The Supplier 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 Supplier's negligence. Where the Supplier is liable under this Clause 14.1 the Supplier's liability to the Customer will be limited to the actual cost of the replacement or repair of the loss or damage to the Customer's Property.

**14.3.** The Customer will ensure that the Customer's Property is in good condition and suitable for use by the Supplier in the performance of the Contract and while the Supplier will use reasonable endeavours to verify any relevant aspects of the Customer's Property no responsibility is accepted by the Supplier for its accuracy.

**14.4.** 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 Contract price or claim damages in respect of such defect.

**14.5.** The Customer will keep the Supplier indemnified in full against all liability, loss, damage, injury, claim, action, demand, expense or proceeding awarded against or incurred by the Supplier as a result of or in connection with the use by the Supplier of the Customer's Property.

**14.6.** The Supplier (without prejudice to any other remedy it may have) has a general lien on all of the Customer's Property in its possession (for any reason) in respect of all sums owed to the Supplier by the Customer.

### 15. Confidentiality

**15.1.** The Customer will keep confidential all technology, 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 the Customer by the Supplier or its agents and any other confidential information concerning the Supplier's business or its products which the Customer may obtain as a result of or in connection with the Contract ("**Confidential Information**").

**15.2.** The Customer 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 the Customer.

**15.3.** The Customer will not without the prior written consent of the Supplier publish or disclose the Confidential Information to any third party or make any use of the Confidential Information except to the extent necessary to implement the Contract.

### 16. IPR

**16.1.** The Customer will keep the Supplier indemnified in full against all liability, loss, damage, injury, claim, action, demand, expense or proceeding in respect of any infringement or alleged infringement of any IPR resulting from any use by the Supplier of the Customer's Property or any compliance by the Supplier with the Customer's instructions, whether express or implied.

**16.2.** Nothing in these Conditions will be construed as any representation or warranty by the Supplier that the design, manufacture, use or sale of the Works is not an infringement of any third party intellectual property rights and the Customer acknowledges that the Supplier only transfers such title as the Supplier has.

### 17. Termination

**17.1.** The Supplier may terminate the Contract immediately if:

**17.1.1.** The Customer fails to pay the price on the due date;

**17.1.2.** The Customer is in breach of any term of the Contract and (where remediable) has failed to remedy such breach within 28 days of receipt of written notice specifying the breach and requiring it to be remedied;

**17.1.3.** There is a material change in the ownership or control of the Customer; or

**17.1.4.** The Customer is wound up or becomes insolvent or has a receiver or administrative receiver appointed or suffers the appointment or the presentation of a petition for the appointment of an administration or any equivalent or analogous event occurs in any jurisdiction.

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

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

### 18. Export Sales

**18.1.** Where the Works are supplied for export from the United Kingdom the provisions of this Clause 18 will (subject to any special terms agreed in writing between the parties) apply despite any other provision of these Conditions.

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

**18.3.** Unless otherwise agreed in writing the currency will be pounds sterling. The Customer will where requested by the Supplier establish and maintain in favour of the Supplier an irrevocable and confirmed letter of credit in English with a UK clearing bank payable on drafts drawn at sight on presentation to the bank by the Supplier of a certified copy of the Supplier's invoice. All bank charges and other expenses in relation to the letter of credit will be borne by the Customer.

**18.4.** Unless otherwise agreed in writing Works will be sold FCA the Supplier's warehouse in the UK (as defined in INCOTERMS 2020 Edition).

**18.5.** 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.

### 19. WEEE Laws and Regulations

**19.1.** The Customer is responsible under the WEEE Laws and Regulations for the environmentally sound disposal of Goods comprising EEE when it is discarded as WEEE within each country into which Goods are imported, exported or otherwise distributed by the Customer, which obligation shall include registering as a "producer" under applicable WEEE Laws and Regulations; and

**19.2.** The Supplier may, at its discretion, offer a "take back" option in relation to WEEE items, but this will be subject to agreement on a case by case basis and may incur a charge.

### 20. Hazardous Substances Laws and Regulations

The Customer is responsible for compliance with the Hazardous Substances Laws and Regulations within each country into which Goods are imported, exported or otherwise distributed by the Customer.

### 21. Data Protection

**21.1.** The Customer is informed and acknowledges that, in the course of the Supplier's business relationship with the Customer, the Supplier will collect and further process Customer Related Personal Data for the purpose of managing orders and, more generally, managing the business relationship between the Supplier and the Customer. By conducting this processing of Customer Related Personal Data, the Supplier is therefore pursuing its legitimate interest to conduct business with the Customer. The processing of such Customer Related Personal Data is necessary for the Supplier to be able to manage this contractual relationship efficiently.

**21.2.** Customer Related Personal Data will only be accessed by the Supplier's employees on a need-to-know basis, in accordance with the purposes set forth above or insofar as such access is required by law. The Supplier may also share Customer Related Personal Data with the Supplier's affiliates for the purpose of processing the Customer's orders and for dealing with Goods as necessary.

**21.3.** Customer Related Personal Data will be retained for

the duration of the Supplier's contractual relationship with the Customer plus the relevant limitation period, except to the extent that the Supplier are required by law to retain it for a longer period of time (in which case, it will be retained for the period required by law).

**21.4.** The Customer and/or the "Data Subjects" under Customer Related Personal Data have a right to obtain information and access the data that the Supplier is processing about them, and to request that such data be (i) rectified if it is inaccurate or incomplete, (ii) erased if it is no longer necessary for the purpose of the processing, or (iii) that its processing be restricted in certain circumstances. The Customer and/or the "Data Subjects" may also have the right to object to the processing of such data. Such rights can be exercised by contacting the Supplier's Data Protection Officer by post at the Supplier's address above or via email at dpo@scolmore.com.

**21.5.** Additional information on the processing of Customer Related Personal Data can be obtained by reviewing the Supplier's Privacy Notice at [www.scolmore.com](http://www.scolmore.com).

### 22. Lien

The Supplier 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 Supplier's possession for whatever reason and whether worked upon or not.

### 23. Force Majeure Etc

The Supplier will not be liable to the Customer or be deemed to be in breach of these Conditions by reason of any delay in performing or failure to perform any of its obligations under these Conditions if such delay or failure was beyond the Supplier's reasonable control, was of an unexpected or exceptional nature or if the duration of the delay is not substantial. If the Supplier is unable to perform its obligations under these Conditions in accordance with this Clause 23 it will promptly notify the Customer of the nature and extent of the circumstances in question.

### 24. General

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

**24.2.** The Supplier may without the prior written consent of the Customer assign, transfer or subcontract the Contract or any part of it to any other person.

**24.3.** Each right or remedy of the Supplier under these Conditions is without prejudice to any other right or remedy which the Supplier may have under these Conditions or otherwise.

**24.4.** Any notice or other document to be served under the Contract must be in writing and may be delivered or sent by prepaid first class post or facsimile transmission, addressed to "Legal and Compliance Department". Any notice or document shall be deemed served, if delivered at the time of delivery, if posted, 48 hours after posting and if sent by facsimile transmission, at the time of transmission.

**24.5.** If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, unenforceable or unreasonable it will, to the extent of such illegality, invalidity, voidness, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

**24.6.** Failure or delay by either party in exercising any right or remedy provided by the Contract or by law will not be construed

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as a waiver of such right or remedy or a waiver of any other right or remedy.

**24.7.** Any waiver by either party of any breach of, or any default under, any provision of the Contract by the other party will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

**24.8.** 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 24.8 does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

**24.9.** The Customer agrees that it will have no remedy in respect of any untrue statement innocently or negligently made by or on behalf of the Supplier prior to the Contract upon which the Customer relied in entering into the Contract whether such statement was made orally or in writing.

**24.10.** The Contract will be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.