

1 PARTIES

The “G&H Group” consists of: (i) Gooch & Housego PLC (company number 00526832); (ii) Gooch & Housego (Torquay) Limited (company number 04381203), trading as G&H Torquay; (iii) Gooch & Housego (UK) Limited (company number 05890426), trading as G&H Ilminster; (iv) Kent Periscopes Limited (company number 05417618), trading as G&H St Asaph; and (v) Spanoptic Limited (company number SC192283), trading as G&H Glenrothes. In these Conditions, each such company is deemed to be a “member of the G&H Group”.

In these Conditions the “**Seller**” means the member of the G&H Group that has been named as a party to the Contract, and the “**Buyer**” means the person or body to whom the Goods and/or Services are to be invoiced.

2 APPLICATION OF THESE CONDITIONS

- A. Clauses 3 and 4 (Definitions and Basis of Contract) apply to all Contracts. In addition:
- i. for sale of Goods in the UK, Parts A and C apply;
 - ii. for sale of Services in the UK Parts B and C apply; and
 - iii. where there is sale of Goods and/or Services outside of the UK, Part D also applies.

3 DEFINITIONS

- A. In Parts A, B, C and D of these Conditions, unless the context requires otherwise:

“**Acknowledgment**” has the meaning given to it in clause 4C;

“**Conditions**” means the terms and conditions of sale set out in this document and any special terms and conditions agreed in Writing by the Seller;

“**Contract**” means a contract for the sale by the Seller to the Buyer of the Goods and/or Services incorporating these Conditions;

“**Delivery Date**” means the date specified by the Seller when the Goods and/or Services are to be delivered;

“**Goods**” means the articles which the Buyer agrees to buy from the Seller;

“**Intellectual Property Rights**” means patents, copyrights, registered and unregistered designs, registered and unregistered trade and service marks and other industrial or intellectual property rights of any kind owned or used by the Seller in respect of the Goods and/or Services;

“**Order**” means a written purchase order made by or on behalf of the Buyer to the Seller for the supply of Goods and/or Services, signed by an authorised representative, indicating specific Goods and/or Services, quantity, price, total purchase price, shipping instructions, requested delivery dates, bill-to and ship-to addresses, tax exempt certifications, if applicable, and any other special instructions.

“**Price**” means the price for the Goods and/or Services excluding carriage, packing, insurance, VAT, duties and other taxes;

“**Services**” means the services which the Seller agrees to provide to the Buyer; “**VAT**” value added tax or any equivalent tax chargeable in the UK or elsewhere; and

“Writing” and any similar expression includes email but excludes facsimile transmission.

4 BASIS OF CONTRACT

- A. These Conditions are the only conditions upon which the Seller is prepared to deal with the Buyer and shall govern the Contract to the entire exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order or similar document.
- B. All Orders shall be deemed to be an offer by the Buyer to purchase Goods and/or Services pursuant to these Conditions. A quotation made by the Seller shall constitute an indication of the price only and shall not be binding on the Seller unless and until a Contract is formed.
- C. No Order shall be deemed to be accepted by the Seller until a Written confirmation (including via email) of order is issued by the Seller (“**Acknowledgment**”) or (if earlier) the Seller dispatches the Goods for delivery to the Buyer or starts providing the Services to the Buyer, at which point a Contract shall be formed. Any contingencies contained within an Order shall not be binding on the Seller.
- D. If a provision or part provision of these Conditions conflicts with the terms of the Acknowledgment and/or Order, the order of preference shall be as follows:
 - E. the Acknowledgment;
 - F. these Conditions; and
 - G. the Order.
- H. Part D of these Conditions will apply in addition to the provisions of Part A, B and/or C for the supply by the Seller of Goods to a country that is not part of the United Kingdom. If Part D applies, in the event of any conflicts between the terms of Part D and Part A, B and/or C the terms of Part D shall apply in preference to the terms of Part A, B and/or C.

PART A – PROVISIONS THAT APPLY TO ALL GOODS SALES

5 THE GOODS

- A. The Goods shall be supplied in accordance with the description contained in the Seller’s quotation or specification (as appropriate) and the Buyer shall not, and shall warrant that it shall not, use the Goods for any purpose other than as specified in the specification.
- B. To the extent that the Goods are to be manufactured in accordance with a specification supplied by the Buyer, the Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Seller arising out of or in connection with any claim made against the Seller for actual or alleged infringement of a third party’s intellectual property rights arising out of or in connection with the Seller’s use of the specification. This clause B shall survive termination of the Contract.
- C. The Seller may from time to time make changes to the specification of the Goods: (i) which are required (or which the Seller deems necessary) to comply with any applicable safety or statutory requirements; (ii) to make any Goods non-infringing with respect to any intellectual property or other proprietary interest; or otherwise (iii) which do not materially affect the quality of the Goods or fitness for a purpose previously held out by the Seller in Writing. The Seller may make such changes at any time without prior notice to, or consent of, the Buyer

and such altered Goods shall be deemed fully conforming.

6 DELIVERY

- A. The Goods are delivered to the Buyer when the Seller makes them available to the Buyer or its agent or any carrier at the Seller's premises, at which point risk in the Goods shall pass to the Buyer.
- B. The Buyer shall be responsible for loading the Goods onto a vehicle at the Seller's premises. Unless otherwise stated in the Acknowledgment, the Buyer shall pay the costs to transport the Goods from the Seller's premises to the Buyer's chosen destination.
- C. The Seller shall not be liable for any loss of or damage to the Goods during transportation from the Seller's premises.
- D. The Goods may be tendered for delivery by the Buyer in advance of the Delivery Date upon the giving of reasonable notice (not less than five business days) to the Buyer. The Buyer shall make all arrangements to take delivery of the Goods whenever they are tendered for delivery.
- E. The Delivery Date(s) quoted by the Seller are approximate only, and time shall not be of the essence for the purpose of the Seller delivering Goods to the Buyer but every effort will be made by the Seller to deliver the Goods on the date forecasted. If for any reason delivery is delayed or suspended, the Seller shall not be liable for any resulting loss or damage caused to the Buyer.
- F. The Seller may tender for delivery to the Buyer and the Buyer shall accept a lesser number than the number of Goods ordered. For the avoidance of doubt the Buyer shall only be obliged to pay for such of the Goods that are delivered. Subject to clause 7, the Seller shall not be liable to the Buyer for short delivery of the Goods.
- G. Notwithstanding that the Seller may have delayed or failed to deliver the Goods (or any of them) on the Delivery Date(s) the Buyer shall be bound to accept delivery and to pay for the Goods in full if delivery is made at any time within one (1) month of the Delivery Date.
- H. Where Goods are deliverable by instalments each instalment shall be deemed to be sold under a separate Contract and any failure on the part of the Seller affecting any particular instalment shall not entitle the Buyer to any right or remedy for any other contract or instalment.
- I. If the Buyer fails to take delivery of the Goods or fails to provide any instructions or documents required to enable the Goods to be delivered, the Seller shall be entitled, upon giving Written notice to the Buyer, to store or arrange for storage of the Goods, at which point risk in the Goods shall pass to the Buyer, delivery shall be deemed to have taken place and the Buyer shall compensate the Seller in full for all additional costs incurred by the Seller.

7 INSPECTION AND ACCEPTANCE OF GOODS

- A. The Buyer is under a duty to inspect the Goods on delivery. The Buyer may reject any Goods delivered to it that do not comply with the description in clause 10A or where there is a shortage in the Goods delivered, provided that:
 - i. notice of rejection 7 is given to the Seller:
 - a) in the case of a defect that is apparent on normal visual inspection, at the point of delivery; and
 - b) in the case of any other defect, verbally within three (3) days of delivery and in Writing within seven (7) days of delivery detailing the alleged defect, visible damage or non-conformity

- ii. none of the events listed in clause 10C apply.
- B. In all cases where notice of rejection is given to the Seller in accordance with clause i, the Seller shall be under no liability unless an opportunity to inspect the Goods is presented to the Seller before any use is made of the Goods or any alteration or modification is made thereto by the Buyer. Subject to the above the Seller shall make good any shortage in the Goods. Goods damaged in transit must not be accepted from the carrier. The Seller shall be under no liability whatsoever for the arising of such damage.
- C. If the Buyer fails to give notice of rejection in accordance with clause i, it shall be deemed to have accepted these Goods.
- D. Without prejudice to the Warranty in clause 10, after acceptance the Buyer shall not be entitled to reject Goods which are not in accordance with the Contract.

8 PASSING OF TITLE

- A. Title in the Goods shall not pass to the Buyer until the earlier of: (a) the Seller receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Buyer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and (b) the Buyer resells the Goods, in which case title to the Goods shall be deemed to have passed to the Buyer immediately prior to delivery of the Goods to the Buyer's customer.
- B. Notwithstanding that the Goods (or any of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller, provided that the Buyer shall not cause or allow any of the Goods to be affixed to any land, building or other premises until such time as title to the Goods has passed to the Buyer. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until title to the Goods passes from the Seller the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the Seller's money and the Buyer shall indemnify the Seller against any costs or losses incurred by the Seller as a result of the Buyer's breach of this clause 8.
- C. Until title to the Goods passes:
 - i. the Buyer will hold the Goods as fiduciary agent and bailee for the Seller;
 - ii. the Goods shall 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 be stored in such a way as to be clearly identifiable as belonging to the Seller;
 - iii. the Seller may at any time revoke the power of sale and use contained in this clause 8 by notice to the Buyer, if the Buyer is in default for longer than fourteen (14) days in the payment of any sum whatsoever due to the Seller (whether in respect of the Goods or any other goods supplied at any time by it to the Buyer) or if the Seller has bona fide doubts as to the solvency of the Buyer;
 - iv. the Buyer's power of sale and use shall automatically cease if the Buyer has a petition presented for its winding-up or passes a resolution for voluntary winding-up otherwise than for the purposes of a bona fide amalgamation or reconstruction or compounds with its creditors or has a receiver appointed of all or any part of its assets or becomes

bankrupt or insolvent or enters into any arrangements with creditors or takes or suffers any similar action in consequence of debts or carries out or undergoes any analogous act proceeding under foreign law; and the Seller shall be entitled to enter upon any land or premises of the Buyer for the purposes of recovering the Goods.

- v. The Seller shall be entitled to appropriate any payment made by the Buyer in settlement of such invoices as the Seller may in its absolute discretion think fit notwithstanding any purported appropriation to the contrary by the Buyer.

9 SOFTWARE

- A. The Seller does not transfer ownership (which, as between the parties, shall remain solely with the Seller) of any software developed by or on behalf of the Seller and contained in any Goods and all related documentation (collectively, “**Software**”). The Seller grants to the Buyer a perpetual, non-exclusive licence to use the Software restricted to use related only to the operation of the single Good. Such licence is transferable only with the transfer of ownership of the Good in which it is used.
- B. Except for making a backup copy or as permitted by law, the Buyer shall not:
 - i. modify, reproduce, copy, reverse engineer, decompile or disassemble all or any portion of the Software;
 - ii. distribute, market, disclose, rent, lease or create derivative works, or sublicense the use of, the Software to any third party; or
 - iii. permit or authorise anyone within the Buyer’s reasonable control to do any acts in (i) or (ii).
- C. The Seller warrants that the Software under normal use and service as originally delivered to the Buyer will function substantially in accordance with the functional description set out in the specification of the Goods and/or user manual supplied with the Software for a period of ninety (90) days from the date of shipment. The Seller’s sole liability and the Buyer’s sole remedy for a breach of this Software warranty shall be the Seller’s good faith efforts to rectify the non-conformity or, if after repeated efforts the Seller is unable to rectify the nonconformity, the Seller shall accept return of the Goods containing the non-conforming Software and shall refund to the Buyer all amounts paid by the Buyer in respect thereof. This warranty is void if failure of the Software has resulted from accident, misuse, abuse, misapplication or modification by or on behalf of the Buyer.

10 WARRANTY

- A. The Seller warrants (the “Warranty”) that on delivery and, unless otherwise specified by the Seller, for a period of one (1) year from the Delivery Date, the Goods (other than Software, as defined and warranted above) will:
 - i. comply in all material respects with their specification; and
 - ii. be free from material defects in design, material and workmanship.
- B. No representation or warranty is given as to the suitability or fitness of the Goods for any particular purpose and the Buyer, having greater knowledge of his own requirements, relies entirely on his own skill and judgement in evaluating the suitability of the Goods for his purpose.
- C. The Warranty is unavailable where:
 - i. the claim is made by a third party, rather than the Buyer;
 - ii. the Goods in question are experimental Goods, prototypes or Goods used in field trials;

- iii. a defect in the Goods arises from the installation of the Goods other than in accordance with the Seller's instructions;
 - iv. a defect in the Goods arises from any drawing, design or specification supplied by the Buyer;
 - v. the Goods are used for a purpose not set out in the Seller's specification;
 - vi. a defect in the Goods arises from fair wear and tear, wilful damage, negligence (other than the Seller's negligence), abnormal working conditions, failure to follow the Seller's instructions and recommendations (including as to the storage and/or installation of the Goods), misuse or alteration or repair of the Goods without the Seller's approval;
 - vii. the Price has not been paid by the due date; and
 - viii. a defect in the Goods appears in, or is caused by, materials or equipment not manufactured by the Seller, in which case the Buyer shall only be entitled to the benefit of any warranty or guarantee given by the manufacturer to the Seller which the Seller is able to pass on to the Buyer.
- D. The Warranty is in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise all of which are hereby excluded to the fullest extent permitted by law.
- E. The Buyer should notify the Seller of any defect it identifies in the Goods as soon as practicable and within seven (7) days after discovery of the defect. The Seller reserves the right to disapply the Warranty in whole or in part where the defect has been exacerbated by the Buyer's delay in notifying the Seller of the defect. The Buyer shall not be entitled to withhold payment of the Price whilst any claim is being investigated by the Seller.
- F. The Seller will only accept Goods returned under the Seller's Return Material Authorisation process ("RMA"). The Buyer shall obtain an RMA number from the Seller prior to returning any Goods and return the Goods prepaid and insured to the Seller as directed by the Seller. Any Goods which have been returned to the Seller but which are found to meet the applicable specification for the Goods and not be defective pursuant to the Warranty, may be subject to the Seller's standard examination charge in effect at the time which shall be charged to the Buyer. Where any Goods are returned without an itemised statement of claimed defects, the Seller will not evaluate the Goods but will return them to the Buyer at the Buyer's expense.
- G. Where a valid claim under the Warranty is notified to the Seller in accordance with this condition, the Seller may replace the Goods (or the parts in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the Price (or a proportion of the Price) in which case the Seller shall have no further liability to the Buyer. Title to the Goods and/or any faulty or defective parts shall revert to the Seller upon replacement. Goods replaced under the Warranty are subject to the original one (1) year warranty period and do not obtain a new warranty period merely by virtue of having been supplied by the Seller under the Warranty.

PART B – PROVISIONS THAT APPLY TO ALL SERVICES SALES

11 SELLER SERVICE OBLIGATIONS

- A. The Seller shall:
- i. perform the Services with reasonable care and skill;
 - ii. use reasonable endeavours to complete the Services in accordance with the Contract in all material respects;
 - iii. use reasonable endeavours to meet any agreed performance dates specified but any

such dates shall be estimates only and time for performance by the Seller shall not be of the essence of the Contract; and

- iv. use reasonable endeavours to observe all health and safety and security requirements that apply at the Buyer's premises and that have been communicated to it, 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.
- v. The Seller warrants that the Services will be performed in accordance with clause i and ii, and will re-perform any Services which the Seller determines are not in compliance with this warranty which the Buyer brings to the Seller's attention, in Writing, on or before one (1) year immediately following completion of the applicable Service. Any claim under this warranty must be made by the Buyer, and no claim will be accepted from any third party.

12 BUYER SERVICE OBLIGATIONS

- A. The Buyer shall:
 - i. co-operate with the Seller in all matters relating to the Services;
 - ii. provide, for the Seller, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Buyer's premises, office accommodation, data and other facilities as reasonably required by the Seller including any such access as is specified in the Order;
 - iii. provide to the Seller in a timely manner all documents, information, items and materials in any form reasonably required by the Seller in connection with the Services and ensure that they are accurate and complete in all material respects; and
 - iv. inform the Seller of all health and safety and security requirements that apply at the Buyer's premises.
- B. If the Seller'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, then, without prejudice to any other right or remedy it may have, the Seller shall be allowed an extension of time to perform its obligations equal to the delay caused by the Buyer.

PART C – PROVISIONS THAT APPLY TO ALL SALES

13 PRICE

- A. The Price shall be the Seller's quoted price (which shall be valid for thirty (30) days from the date of quotation and subject to the Seller's right to increase the Price of Goods and/or Services pursuant to clause B and/or C). The Price is exclusive of VAT (which, if due, shall be at the rate ruling on the date of the Seller's invoice) and all handling or other charges including without limitation insurance, brokerage fees, transportation or special packaging.
- B. The Seller reserves the right, by giving Written notice (including via email) to the Buyer at any time before delivery, to increase the price of any Goods and/or Services to reflect any increase in the cost to the Seller which is due to any change in delivery dates, quantities or specifications for the Goods and/or Services which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- C. Where the Buyer intends to purchase a certain volume of Goods (the "**Intended Volume**")

across multiple Orders, the Seller may agree to offer the Buyer a discount on the Price of a single Order in advance of the entire Intended Volume being purchased (a “**Volume Discount**”). The Seller reserves the right to increase the Price of any Order to which a Volume Discount has been applied where the Buyer subsequently fails to purchase the Intended Volume. Where the Buyer has already paid for such Orders, the Seller may invoice the Buyer for the difference between the discounted Price and the full price had the Volume Discount not been applied.

14 PAYMENT

- A. Upon credit approval by the Seller, payment terms shall be net thirty (30) days from the date of the shipment, or in the case of Services, net thirty (30) days from the date of completion. The Seller reserves the right to require alternative payment terms including, without limitation, letter of credit or payment in advance. There is no set-off right for the Buyer.
- B. Time for payment by the Buyer shall be of the essence. If payment is not made in accordance with these terms, or if at any time the credit standing of the Buyer has (in the opinion of the Seller) been impaired, the Seller may refuse to deliver any further Goods or supply any further Services until arrangements as to payment or credit has been established to the complete satisfaction of the Seller.
- C. Without prejudice to any other remedy, if the Buyer fails to pay an invoice in full on the due date, the Seller may charge interest (before and after judgement) on the amount unpaid at the annual rate of 4 per cent above the base lending rate from time to time of the National Westminster Bank plc per month such interest being deemed to accrue on a day to day basis from the due date compounded quarterly. Notwithstanding the above, the Seller reserves the right to impose such terms as to payment, credit, security or guarantees as it thinks fit. The Buyer shall indemnify the Seller fully against all fees, costs and expenses incurred in collecting any sum payable by the Buyer.

15 CANCELLATION

The Buyer may not cancel, terminate, suspend performance of, or issue a hold on, any Order, in whole or in part, without the prior written consent of the Seller, which consent, if given, shall be upon terms that will compensate the Seller for any loss or damage therein, including but not limited to, any work in process or Services performed, the price of Goods shipped to, manufactured for, or held separately for, the Buyer, and loss of profits, incurred costs, and a reasonable allocation of general and administrative expenses relating to the Goods and/or Services.

16 LIMITS ON LIABILITY – THE BUYER’S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- A. Nothing in these Conditions shall limit or exclude the Seller’s liability for:
 - i. death or personal injury caused by its negligence, or the negligence of its employees or agents;
 - ii. fraud or fraudulent misrepresentation;
 - iii. breach of the terms implied by sections 2 and 11B of the Supply of Goods and Services Act 1982 and section 12 of the Sale of Goods Act 1979; or
 - iv. any other liability that cannot lawfully be excluded, restricted or limited.
- B. In no circumstances will the Seller be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any special, indirect, economic or

consequential loss, including without limitation loss of contracts, revenue, profits, goodwill, anticipated savings and loss arising from any third party claim.

- C. The parties acknowledge that the Buyer may provide materials to the Seller (free of charge or otherwise) for the Seller to process in order to supply the Goods and/or Services under the Contract. The Seller shall have no liability to the Buyer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for loss or damage to any such materials and, for the avoidance of doubt, the Seller shall not be obliged to reimburse the Buyer any of the cost of such materials should the processing of the materials not be successful.
- D. Subject to clause A and B:
 - i. the Seller's total liability whether in contract, tort (including negligence), breach of statutory duty or otherwise shall, in respect of each event or series of connected events, not exceed the Price; and
 - ii. the Seller shall in no circumstances be liable for any claim relating to the Contract which is notified by the Buyer to the Seller more than twelve (12) months after the date of the Seller's invoice.

17 TERMINATION

- A. Without prejudice to any other remedy, the Seller may withhold deliveries and/or immediately terminate the Contract if the Buyer:
 - i. commits a breach of the Conditions or fails to pay any sum due to the Seller on any account on the due date; or
 - ii. ceases trading or is unable to pay its debts as they fall due within the meaning of Section 123 of the Insolvency Act 1986, or has a receiver, administrative receiver, or liquidator appointed over all or any of its business or assets, or passes a resolution for winding-up, or is the subject of an administration order, winding-up order or bankruptcy order, or enters into any composition or voluntary arrangement with its creditors, or is subject to any similar event of insolvency in any other jurisdiction.
- B. If the parties have agreed multiple production runs, the Buyer may terminate the contract by giving the Seller at least ninety (90) days Written notice expiring before any agreed delivery date, provided that the Buyer pays for all work in progress, previous orders and instalments of Goods in full before the termination date.
- C. If such Written notice is not given in accordance with clause B, and in the event that the Buyer does not take delivery of the entire Order within the due date, then the Seller is entitled to demand immediate payment in full of the total outstanding balance of the order together with all other unpaid amounts.

18 CONSEQUENCES OF TERMINATION

- A. On termination of the Contract pursuant to clause 17A:
 - i. the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately on receipt;
 - ii. the Buyer shall return all of the materials of the Seller and any Goods which have not been fully paid for. If the Buyer fails to do so, then the Seller may enter the Buyer's premises and take possession of them. Until they have been returned, the Buyer shall be

solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

- B. Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- C. Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.

19 INTELLECTUAL PROPERTY

- A. All Intellectual Property Rights in the Goods and/or Services, any improvements made to the Goods and/or Services, any related tooling, set-up, fitting-up and preparation and any drawing, specification or other document provided by the Seller to the Buyer shall remain the absolute property of the Seller. Nothing in these Conditions shall confer upon the Buyer any right to use, copy, license or otherwise exploit the Intellectual Property Rights. The Buyer agrees not to reverse engineer all or any portion of any Goods nor allow or assist others to do so. The Buyer agrees not to remove, alter, erase, deface or cover over any markings on the Goods or its packaging.
- B. The Buyer shall notify the Seller as soon as practicable if it becomes aware of any infringement of the Intellectual Property Rights. If the Buyer uses or sells the Goods supplied by the Seller in such a manner as to infringe any third party Intellectual Property Rights, the Seller shall not be responsible for such infringement and the Buyer agrees to indemnify the Seller from and against all liability arising from the Buyer's breach.

20 FORCE MAJEURE

The Seller shall not be liable or deemed to be in breach of the Contract for any delay or failure to perform its obligations caused by any event or circumstance which is beyond its control, including without limitation an act of God, fire, flood, pandemic, plant breakdown, malicious damage, theft, non-availability of supplies or materials, industrial action, act of government, civil disturbances (UK or abroad), terrorism or war.

21 IMPORT OR EXPORT LICENCES AND OTHER FORMALITIES

- A. The Buyer shall promptly obtain all necessary import or export licences, clearances, permits, approvals and other consents necessary for the sale and purchase of the Goods and/or Services, unless otherwise agreed in Writing. On request from the Seller, the Buyer shall promptly furnish the Seller with any documentation required by the Seller to obtain any export licences, clearances, permits, approvals and other consents necessary for the sale of the Goods and/or Services. The Seller shall upon request supply all documents reasonably required by the Buyer for this purpose. The Buyer shall indemnify and hold the Seller harmless for any violation or alleged violation by the Buyer of such laws, rules, policies or procedures (as set out in this clause).
- B. The Buyer shall not transmit, export or re-export, directly or indirectly, separately or as part of any system, the Goods or any technical data (including processes and services) received from the Seller, without first obtaining any licence required by the applicable government, including without limitation, the United States Government and/or any other applicable competent authority. The Buyer also certifies that none of the Goods or technical data supplied by the Seller under the Contract will be sold or otherwise transferred to, or made

available for use by or for, any entity that is engaged in the design, development, production or use of nuclear, biological or chemical weapons.

22 GENERAL

- A. **Contracts (Rights of Third Parties) Act.** The contracts (rights of third parties) act 1999 shall not apply to the contract and nothing in the contract shall confer or purport to confer on or operate to give any third party any benefit or any right to enforce any term of the contract except as expressly provided in these conditions.
- B. **Entire agreement.** The contract constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, arrangements or understandings between them. The parties acknowledge that they have not entered into the contract in reliance upon any statement, representation, assurance or warranty which is not set out in these conditions. Nothing in this clause shall limit or exclude any liability for fraud.
- C. **No waiver.** No delay or failure by the seller to enforce its rights under these conditions shall be deemed to be a waiver of such right.
- D. **Notice.** A notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- E. **Severance.** If any provision or part-provision of the contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause E shall not affect the validity and enforceability of the rest of the contract.
- F. **No partnership or agency.** Nothing in the contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- G. **Assignment.**
- i. The seller may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the contract.
 - ii. The buyer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the contract without the prior written consent of the seller.
- H. **Variation.** Except as set out in these conditions, no variation to the contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- I. **Governing law.** 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 English law.
- J. **Jurisdiction.** Subject to clause M in respect of international sales, 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).

PART D – ADDITIONAL PROVISIONS THAT APPLY TO ALL SALES OF GOODS AND/OR SERVICES OUTSIDE THE UK

THE ATTENTION OF CUSTOMERS BASED OUTSIDE OF THE UK IS PARTICULARLY DRAWN TO THESE PROVISIONS

- A. **Seller's Representations.** The Seller makes no representation, and gives no warranty to the Buyer, that the Goods and/or Services will comply with all mandatory laws, regulations, ordinances or other guidance in any country outside of the United Kingdom. The Buyer expressly acknowledges that the Buyer is responsible for ensuring that the Goods and/or Services comply with all applicable laws, regulations, ordinances or guidance.
- B. **Governing Law.** In addition to clause H, for the avoidance of doubt, the United Nations Convention on the International Sale of Goods shall not apply to the Contract. The international rules for the interpretation of trade terms prepared by the International Chamber of Commerce (Incoterms) shall apply to the Contract but where they conflict with any term of these Conditions, these Conditions shall prevail.
- C. **Jurisdiction.** Nothing in these Conditions (and in particular clause J) shall limit the right of the Seller to take proceedings against the Buyer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdiction(s) preclude the Seller from taking proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.