

Terms & Conditions of Sale (Trade Customers Only)

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1. Interpretation

1.1. The definitions and rules of interpretation in this clause apply in these Terms.

Buyer: the person, firm or company who purchases the Goods from the Company.

Contract: any contract between the Buyer and the Company that incorporates these Terms.

Company: AVS FENCING SUPPLIES LTD (company number 02818962) whose registered office is at The Manor House, Graylands Estate, Langhurstwood Road, Horsham, West Sussex, RH12 4QD.

Delivery: completion of delivery in accordance with [clause 7](#).

Force Majeure Event: has the meaning given in [clause 15](#).

Goods: any goods agreed in an Order to be supplied to the Buyer by the Company (including any part or parts of them).

Order: an order for Goods submitted by the Buyer in accordance with clause 4.

Relevant Event: has the meaning given in [clause 13.2](#).

Terms: the terms and conditions of sale set out in this document.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax.

Working Day: any day which is not a public holiday in England or a Saturday or a Sunday.

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

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

1.4. A reference to writing or written includes faxes and e-mails.

2. Basis of Sale

2.1. Subject to any variation under [clause 2.3](#), these Terms shall apply to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2. The Buyer shall be bound by the terms of these Terms once a Contract comes into existence in accordance with [clause 4.4](#).

2.3. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in these Terms. Any variation to these Terms and/or any representations about the Goods shall only be valid if it is expressly made in writing, signed by a director of the Company and addressed to the Buyer.

2.4. Any samples, drawings, or advertising issued, and any illustrations contained on the Company's websites, catalogues or brochures, are produced solely to provide the Buyer with an approximate idea of the Goods they describe. They shall not form part of any Contract.

2.5. If any terms of these Terms are inconsistent with any term of the Order, the Terms shall prevail.

2.6. Nothing in this clause shall exclude or limit the Company's liability for fraudulent misrepresentation.

3. Supply of Goods

3.1. The Company shall supply and the Buyer shall purchase such quantities of the Goods as the Buyer may order under [clause 4](#) in accordance with the terms and conditions of these Terms.

4. Orders and Quotations

4.1. When the Buyer signs and submits the Order to the Company, this does not mean the Company has accepted the Buyer's order for Goods. The Company's acceptance of the Order will take place as described in this clause. If the Company is unable to supply the Buyer with the Goods, the Company will inform the Buyer of this in writing and the Company will not process the Order.

4.2. An Order may be placed by the Buyer:

4.2.1. in writing (including electronic means); or

4.2.2. orally (including over the telephone).

4.2.3. In person

4.3. The Company may (but is not obliged to) assign an order number to an Order. Each party shall use the relevant order number in all subsequent correspondence relating to that Order.

4.4. These Terms shall become binding on the Buyer when:

4.4.1. the Company issues the Buyer with written acceptance or acknowledgement of an Order;

4.4.2. the Company notifies the Buyer that the Goods are ready for collection;

4.4.3. the Company delivers the Goods to the address nominated by the Buyer; or

4.4.4. the Buyer purchases and collects the Goods from the Company,

whichever is the earlier, at which point the Contract shall come into existence between the Company and the Buyer.

4.5. Any quotation given by the Company for the Goods shall not constitute an offer and is given on the basis that a binding contract shall only come into existence in accordance with [clause 4.4](#). A quotation

shall be valid for a period of thirty (30) calendar days from its date of issue; unless the Company notifies the Buyer in writing that the quotation has been withdrawn during this period. For certain types of Goods where the cost to the Company of the raw materials may fluctuate, the price payable for the Goods, shall be the price prevailing on the day of Delivery in accordance with [clause 11.1](#) and in such circumstances the quotation given to the Buyer shall specify this.

4.6. The Buyer shall ensure that:

4.6.1. the Order and any applicable specification are complete and accurate; and

4.6.2. the quantity and type of Goods in an Order are appropriate for the Buyer's intended purpose and when calculating the quantity the Buyer should also take into account the provisions of [clause 6.8](#), if applicable.

5. The Goods

5.1. Subject to the remainder of this [clause 5](#), the Goods supplied to the Buyer under these Terms shall:

5.1.1. conform in all material respects with their description contained in the Company's brochures, advertisements or other promotional documents that are current at the time of the Order (subject to any qualifications set out in such documents);

5.1.2.. be of satisfactory quality;

5.1.3.. be reasonably fit for any particular purpose:

(a) the Company states they are fit for in the documents referred to in clause 5.1.1; or

(b) that is set out in the Order;

5.2. This warranty does not apply to any defect in the Goods arising from fair wear and tear, willful damage, accident, negligence by the Buyer or any third party, if the Buyer uses the Goods in a way that the Company does not recommend (for example by cutting any treated Goods), the Buyer's failure to follow the Company's instructions, or any alteration or repair the Buyer carries out without the Company's prior written approval.

5.3. The Company shall not be liable for a breach of any of the warranties in [clause 5.1](#) if:

5.3.1. the Buyer makes any further use of such Goods after giving notice in accordance with [clause 6.2](#);

5.3.2.. the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade and industry practice;

5.3.3. the Buyer alters or repairs such Goods without the written consent of the Company; or

5.3.4. the Buyer uses the Goods for a purpose for which they were not designed unless the Company has warranted that they are fit for the Buyer's purpose in accordance with the warranty given in [clause 5.1](#).

5.4. The Buyer acknowledges that certain Goods may be identified by the Company as being "not for ground contact", for "temporary use" or similar. The Buyer acknowledges that such Goods are untreated, and by their very nature, have a limited life span and, accordingly, the Company makes no guarantee, warranty or representation as to their life span.

5.5. The Buyer acknowledges that whilst the Company may supply Goods that may be compliant with various British Standards or other standards, the Company makes no guarantee, representation or warranty that any Goods sold comply with the requirements of any such standard.

5.6. Except as set out in these Terms, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Terms.

5.7. Unless the Order expressly indicates that the Goods are to be supplied in a specific imperial or metric size, the Company shall have the option to supply all or any of the Goods in either imperial or metric size to the nearest equivalent measure notwithstanding any description contained in any contractual or other documentation or description relating to the Goods.

5.8. Goods comprising or constructed partly or wholly of timber are by their nature liable to become subject to surface mould, deterioration over time, expansion, contraction, warping and/or splitting and the Company shall not be liable for any loss or damage arising from the same.

5.9. The Company makes no guarantee, warranty or representation as to the actual colour of Goods made of timber or that such colours shall be uniform throughout the Goods supplied or that such colour will not weather, age or change with time, whether uniformly or unevenly and the Company shall not be liable for any loss or damage arising from the same.

6. Defective Goods and returns

6.1. On Delivery, the Buyer is responsible for completing all necessary checks to ensure that the Goods are the Goods the Buyer intended to purchase, the Goods are fit for the use that the Buyer intends to use the Goods for and in accordance with any Order (both in terms of description and quantity) before the Buyer uses or incorporates the Goods into any other goods.

6.2. The Buyer may reject the Goods Delivered to it that do not comply with [clause 5.1](#), provided that notice of rejection is given to the Company in writing:

6.2.1. in the case of a defect that is apparent on normal visual inspection within three (3) Working Days of Delivery;

6.2.2. in the case of latent defect, within a reasonable time of the latent defect having become apparent; and

6.2.3. in the case of defect which is the result of damage in transit from the carrier within three (3) Working Days of Delivery.

6.3. If the Buyer fails to give notice of rejection in accordance with [clause 6.2](#) it shall be deemed to have accepted the Goods.

6.4. If the Buyer rejects Goods under [clause 6.2](#) then the Buyer shall be entitled to:

6.4.1. require the Company to repair or replace the rejected Goods; or

6.4.2. require the Company to repay the price of the rejected Goods in full,

provided that, if the Company so requests, the Buyer shall return the Goods or the part of such Goods which is defective to the Company. Collection by the Company or delivery by the Buyer of the rejected Goods shall be arranged and completed as agreed by the parties.

6.5. Once the Company has complied with the Buyer's request, it shall have no further liability to the Buyer in respect of the rejected Good's failure to comply with [clause 5.1](#).

6.6. The terms of these Terms shall apply to any repaired or replacement Goods supplied by the Company.

6.7. The Company may, but is not obliged to, at its absolute discretion agree to repurchase Goods from the Buyer. The terms of any repurchase shall be agreed between the parties and the Company will charge a handling fee equivalent to a percentage of the Goods original purchase price, to be determined at the time. The Company may also elect to charge a collection fee in such circumstances.

6.8. The Buyer acknowledges that the natural features of certain types of Goods mean that there may be some breakages and natural defects in Goods delivered under the Buyer's Order. The Buyer agrees that unless such breakage or natural defect quality exceeds more than five percent (5%) of the Goods in the Order the Company may, but is not obliged, to exchange such proportion of the Goods. For the avoidance of doubt, where such breakage or natural defect is five percent (5%) or less of the Goods in the Order the Company is not obliged to exchange such proportion of the Goods.

6.9. In the event that the Buyer returns the Goods for any reason the Company may in its absolute discretion make a handling charge in respect of administration, carriage, storage, disposal or handling thereof.

7. Delivery

7.1. Unless otherwise agreed in writing by the Company, Delivery of the Goods shall take place at the Company's place of business. If Delivery is to take place elsewhere the Company shall only be obliged to deliver to the Buyer's business address or a site over which the Buyer has control or a legitimate presence thereon for the purpose of the Buyer's business.

7.2. The Buyer shall take Delivery of the Goods within seven (7) Working Days of the Company giving it notice that the Goods are ready for Delivery.

7.3. Each delivery of the Goods shall be accompanied by a Delivery note from the Company showing the Order number (if applicable); the date of the Order; the type and quantity of Goods included in the Order; and in the case of an Order being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

7.4. Any dates specified by the Company for Delivery of the Goods are intended to be an estimate only and time for Delivery shall not be of the essence. If no dates are so specified, Delivery shall be within a reasonable time.

7.5. Subject to the other provisions of these Terms 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 similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind these Terms unless such delay exceeds ninety (90) Working Days.

7.6. If for any reason the Buyer fails to take or accept Delivery of any of the Goods within seven (7) Working Days of the Company notifying the Buyer that they are ready for Delivery, except where such failure or delay is caused by a Force Majeure Event or the Company's failure to comply with its obligations under the contract, or the Company is unable to Deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

7.6.1. risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);

7.6.2.. the Goods shall be deemed to have been delivered; and

7.6.3. the Company may store the Goods until the Buyer takes Delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

7.7. If 30 Working Days after the day on which the Company notified the Buyer that the Goods were ready for delivery the Buyer as not taken or accepted delivery of them, the Company may resell or otherwise

dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Buyer for any shortfall below the price of the Goods.

7.8. Goods may be delivered on pallets. The Company will endeavour to use pallets that have no value. However, in the event that the pallets the Company use have a value the Company will notify the Buyer in advance and the Company may require a deposit. Under such circumstances it is the Buyer's responsibility to store the pallets in good condition and at its own risk. The Company shall collect any such pallets within its normal distribution radius subject to receiving reasonable notice from the Buyer and shall refund the deposit subject to the pallets being in no worse a condition than when they were delivered to the Buyer.

7.9. The Buyer is solely responsible for disposal of any packaging and resultant waste relating thereto and the Buyer will comply with all applicable laws and obtain all such licences and permissions as may be required relating to the storage, transport, sale or other disposal of such waste and the Buyer will indemnify the Company for any costs, claims, expenses and liability whatsoever resulting from any breach of this [clause 7.9](#).

7.10. The Company shall not be liable in the event that the quantity of Goods it delivers to the Buyer is less than the Buyer order unless the Buyer notifies the Company in writing within three (3) Working Days of the numbers delivered short and in such circumstances the Company's liability shall be restricted to making good such shortage.

7.11. The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of these Terms.

7.12. Each instalment shall be a separate agreement under these Terms and no cancellation or termination of any agreement under these Terms relating to an instalment shall entitle the Buyer to repudiate or cancel any other agreement under these Terms or instalment.

7.13. The Buyer shall indemnify the Company for the cost of any delay in Delivery in the event that Delivery is attempted but the Company is unable to deliver because Delivery is refused or impractical because of restrictions at the Buyer's address for Delivery.

7.14. The Company shall deliver the Goods to the nearest kerbside. If, at the request of the Buyer, the Company's vehicle proceeds beyond such kerbside, this shall be at the Buyer's risk and, accordingly, the Buyer shall indemnify the Company from and against all claims, damages, losses, costs (including legal costs), expenses and liabilities arising from the Company's vehicle doing so (including but not limited to any personal injury and to any damage to the vehicle, the Goods or any third party property).

8. Non-Delivery

8.1. The quantity of any consignment of Goods as recorded by the Company on despatch and shown on the Company's Delivery note from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

8.2. The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer:

8.2.1. gives written notice to the Company of the non-delivery within three (3) Working Days of the date when the Goods would in the ordinary course of events have been received; and

8.2.2.. the Company fails to deliver on the revised delivery date.

8.3. Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata rate under these Terms against any invoice raised for such Goods.

9. Manual handling of the Goods on Delivery

9.1. The Buyer acknowledges that the Goods might be heavy/bulky, difficult to grasp and that manoeuvring the Goods might be difficult. The Buyer agrees that it, and shall procure that its personnel, will not assist the driver in unloading and/or manoeuvring the Goods if they have not undertaken all the necessary training to do so and without having assessed the risks involved in doing so.

9.2. To the extent that the Buyer's personnel do assist in the unloading and/or manoeuvring of the Goods, the Buyer shall indemnify the Company from and against all claims, damages, losses, costs (including legal costs), expenses and liabilities arising from the Buyer's personnel so doing.

10. Title and Risk

10.1. The Goods are at the risk of the Buyer from the time of Delivery.

10.2. Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

10.2.1. the Goods; and

10.2.2. all other sums which are or which become due to the Company from the Buyer for sale of Goods on any account.

10.3. Until ownership of the Goods has passed to the Buyer, the Buyer shall:

10.3.1. hold the Goods on a fiduciary basis as the Company's bailee;

10.3.2. store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;

10.3.3. not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

10.3.4. maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company; and

10.3.5. notify the Company immediately if it becomes subject to a Relevant Event.

10.4. The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

10.4.1. any sale shall be effected in the ordinary course of the Buyer's business at full market value; and

10.4.2. any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

10.5. The Buyer's right to possession of the Goods shall terminate immediately if:

10.5.1. the Buyer suffers a Relevant Event; or

10.5.2. the Buyer encumbers or in any way charges any of the Goods.

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

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

10.8. 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.

10.9. On termination of any Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this [clause 10.9](#) shall remain in effect.

11. Price

11.1. Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's price list published on the date of Delivery or deemed Delivery as revised from time to time unless the provisions of [clause 11.2](#) below apply.

11.2. If the Company gives notice of changes to the price list the previous price will apply in respect of all Orders placed with the Company before notice was given but the Company may in its absolute discretion decide to charge the new price for Goods delivered after the price list was changed. We are within our right to change prices at any time without prior notice.

11.3. The price for the Goods shall be exclusive of any VAT and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

11.4. These prices exclude delivery costs, which will be added to the total amount due.

12. Payment

12.1. Subject to [clause 12.4](#), payment of the price for the Goods is due in pounds sterling by the last Working Day of the month following the month in which Delivery of the Goods takes place or the Goods are deemed to be Delivered.

12.2. Time for payment shall be of the essence.

12.3. No payment shall be deemed to have been received until the Company has received cleared funds.

12.4. All payments payable to the Company under these Terms shall become due immediately on its termination despite any other provision. This clause 12.4 is without prejudice to any right to claim for interest under the law or under these Terms.

12.5. The Buyer shall make all payments due under these Terms 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. The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Company to the Buyer.

12.6. If the Buyer fails to pay the Company any sum due pursuant to these Terms by the due date for payment (as set out in [clause 12](#)), the Company reserves the right and may charge interest to the Buyer on the overdue amount at the rate of 8% above the Bank of England base rate, accruing on a daily basis until the payment is made, whether before or after any judgement. The Buyer shall pay the interest together with the overdue amount.

12.7. If payment is made by credit card the Company reserves the right to make an administrative charge equivalent to 3% of the value of the invoice (including VAT).

12.8. If the Buyer has opened an account with the Company, the Company may require the Buyer to provide payment by direct debit or standing order at any time and if the Buyer fails to do so the Company may suspend the account for such period or periods as it thinks fit or cancel the account in its absolute discretion. The Company may refuse to accept payment by standing order or direct debit at any time in its absolute discretion.

12.9. Without limiting any other remedies or rights that the Company may have, if the Buyer does not pay the Company on time, the Company may cancel or suspend any other outstanding Order until the Buyer pays the outstanding amounts.

13. Termination and Suspension

13.1. If the Buyer becomes subject to any of the Relevant Events, the Company may terminate the Contract with immediate effect by giving written notice to the Buyer.

13.2. Relevant Events are:

- 13.2.1. the Buyer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- 13.2.2. the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Buyer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- 13.2.3. (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer, other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- 13.2.4. (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer;
- 13.2.5. (being a company) the holder of a qualifying floating charge over the Buyer's assets has become entitled to appoint or has appointed an administrative receiver;
- 13.2.6. a person becomes entitled to appoint a receiver over the Buyer's assets or a receiver is appointed over the Buyer's assets;
- 13.2.7. (being an individual) the Buyer is the subject of a bankruptcy petition or order;
- 13.2.8. a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 13.2.9. the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;

13.2.10. the Buyer's financial position deteriorates to such an extent that in the Company's opinion the Buyer's capability to adequately fulfil its obligations under the contract has been placed in jeopardy; and

13.2.11. (being an individual) the Buyer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

13.3. Without limiting its other rights or remedies, the Company may suspend provision of the Goods under the Contract or any other contract between the Company and the Buyer if the Buyer becomes subject to any of the Relevant Events, or the Company reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under the contract on the due date for payment.

13.4. Termination of the Contract, howsoever arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

13.5. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

14. Limitation of liability

14.1. Subject to clauses [14.2](#) and [14.3](#) this clause 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:

14.1.1. any breach of these Terms however arising;

14.1.2. any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and

14.1.3. any representation, statement or tortious act or omission including negligence arising under or in connection with these Terms.

14.2. Nothing in these Terms excludes or limits the liability of the Company:

14.2.1. for death or personal injury caused by the Company's negligence; or

14.2.2. for fraud or fraudulent misrepresentation;

14.2.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979;

14.2.4. defective products under the Consumer Protection Act 1987; or

14.2.5. for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability.

14.3. Subject to [clause 14.2](#) the Company shall in no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise for any:

14.3.1. loss of profit;

14.3.2. loss of goodwill;

14.3.3. loss of business;

14.3.4. loss of business opportunity;

14.3.5. loss of anticipated saving; or

14.3.6. special, indirect or consequential damage

suffered by the Buyer in connection with these Terms.

14.4. Subject to [clause 14.2](#) 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 under these Terms shall be limited to the price paid by the Buyer for the Goods under the Order in respect of which the loss arises.

15. Force Majeure Event

15.1. The Company will not be liable or responsible for any failure to perform, or delay in performance of, any of its under these Terms that is caused by events outside its reasonable control (Force Majeure Event).

15.2. A Force Majeure Event includes but is not limited to any act, event, non-occurrence, omission or accident beyond the Company's reasonable control and includes, in particular (without limitation), the following: strikes, lock-outs or other industrial action; civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war; fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster; impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport; impossibility of the use of public or private telecommunications networks; or pandemic or epidemic.

15.3. The Company's obligations under these Terms are suspended for the period that the Force Majeure Event continues and may, at its absolute discretion, elect to defer the date for delivery or to cancel and Order or to reduce the volume of Goods ordered by the Buyer (without liability to the Buyer) if it is prevented or delayed in the carrying on of its business due to a Force Majeure Event the Company will have an extension of time to perform its obligations under these Terms for the duration of that period.

16. Variation

16.1. The Company reserves the right to revise and amend these Terms from time to time to reflect changes in market conditions affecting its business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in the Company's system's capabilities. The Buyer will be subject to the policies and terms in force at the time that the Buyer places the order for the Goods, unless any change to those policies or these Terms is required by law or government or regulatory authority (in which case, it will apply to orders the Buyer has previously placed that the Company has not yet fulfilled).

17. Assignment

17.1. The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the contract.

17.2. The Buyer shall not be entitled to assign these Terms or any part of it without the prior written consent of the Company.

18. Notices

18.1. All communications between the parties about these Terms, or where notice is required to be given pursuant to these Terms, the notice shall be in writing and delivered by hand or sent by pre-paid first class post or if sent by the Company, by post and/or fax and/or email:

- 18.1.1. (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or
- 18.1.2. (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.
- 18.2. Communications shall be deemed to have been received:
- 18.2.1. if sent by pre-paid first class post, two Working Days after posting (exclusive of the day of posting); or
- 18.2.2. if delivered by hand, on the day of delivery; or
- 18.2.3. if sent by email and/or fax one Working Day after being sent.
- 18.3. Communications addressed to the Company shall be marked for the attention of the Company Secretary.

19. General

- 19.1. Each right or remedy of the Company under these Terms is without prejudice to any other right or remedy of the Company whether under these Terms or not.
- 19.2. If any provision of these Terms is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of these Terms and the remainder of such provision shall continue in full force and effect.
- 19.3. A waiver of any right or remedy by the Company under the Terms or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by the Company to exercise any right or remedy provided under the Terms or by law shall constitute a waiver of that or any other right or remedy, not shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict further exercise of that or any other right or remedy.
- 19.4. The parties to these Terms do not intend that any term of these Terms shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 19.5. This Contract contains the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the parties relating to that subject matter. Each party acknowledges that, in entering into this Contract, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to this Contract or not) other than as expressly set out in the Contract. Nothing in this clause 19.5 shall limit or exclude any liability for fraud.
- 19.6. The formation, existence, construction, performance, validity and all aspects of these Terms shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts.