

**PACCOR UK LIMITED**  
**GENERAL TERMS AND CONDITIONS OF SALE**

(Effective as from 01 April 2022)

The Buyer's attention is drawn in particular to the provisions of conditions 3.5, 6.8 and 11

**1. Interpretation**

1.1. In these Conditions:

<b>"Business Days"</b>	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;
<b>"Buyer"</b>	means the person whose order for the Goods is accepted by the Seller;
<b>"Buyer IPRs"</b>	means all Intellectual Property Rights of which the Buyer is the owner or licensee, and which are disclosed, licensed or provided to the Seller pursuant to this Contract;
<b>"Buyer Materials"</b>	includes any and all designs, drawings, moulds and other materials provided by the Buyer to the Seller, and to the extent that Tooling has been provided by the Buyer to the Seller, includes Tooling;
<b>"Conditions"</b>	means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions mentioned in the Quotation;
<b>"Contract"</b>	means the contract for the purchase and sale of the Goods in accordance with these Conditions;
<b>"DAP"</b>	has the meaning ascribed to it in the Incoterms;
<b>"Ex Works"</b>	has the meaning ascribed to it in the Incoterms;
<b>"Force Majeure Event"</b>	an event or circumstance beyond a party's reasonable control;
<b>"Goods"</b>	means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions;
<b>"Improvements"</b>	means any improvement, development, enhancement, modification or derivative of the Goods or their design or manufacturing process, including but not limited to any improvement or development of the Buyer IPRs;
<b>"Incoterms"</b>	means the international rules for the interpretation of trade terms of the International Chamber of Commerce (2020 version) as updated from time to time;
<b>"Intellectual Property Rights"</b>	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim

<p><b>"Minimum Order Quantity"</b></p> <p><b>"Order"</b></p> <p><b>"Order Acknowledgement"</b></p> <p><b>"Printed Goods"</b></p> <p><b>"Quotation"</b></p> <p><b>"Seller"</b></p> <p><b>"Seller IPRs"</b></p> <p><b>"Specification"</b></p> <p><b>"Tooling"</b></p>	<p>priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;</p> <p>means the minimum order quantity of Goods as set out in the Quotation;</p> <p>the Buyer's order for the Goods, as set out in the Buyer's purchase order form, in the Buyer's acceptance of the Seller's Quotation or overleaf, as the case may be;</p> <p>means the Seller's written acknowledgement of the Buyer's Order, but does not include any automatically generated email acknowledgments of an Order;</p> <p>Goods which as part of their specifications includes text and images to be printed or otherwise affixed to the Goods;</p> <p>The pricing offer to treat from the Seller listing the goods and specific conditions applicable to the offer of Goods;</p> <p>means PACCOR UK Limited (company number SC121847);</p> <p>means all Intellectual Property Rights of which the Seller is the owner or the licensee including all such rights which originate from the Seller's activity in the course of the design and manufacture of the Goods and all Intellectual Property Rights which have been developed independently of the Contract, whether before or after its commencement;</p> <p>any specification for the Goods including any related plans and drawings, being: in the case of Goods purchased from the Seller's catalogue or standard product range, the specification provided in or referenced in the Quotation and/or Order Acknowledgment; and in the case of bespoke Goods, a specification agreed in writing by the Seller and the Buyer.</p> <p>means all tooling, including without limitation all die tools, drills, moulds, presses, vessels, tools, adapters, pattern and printing plates and related items.</p>
<p>1.2. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.</p> <p>1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.</p> <p>1.4. A reference to "writing" or "written" excludes faxes and emails.</p> <p><b>2. Basis of the Sale</b></p> <p>2.1. The contract shall be effected upon the Seller issuing the Order Acknowledgment, and the date of the contract shall be deemed to be the date of the acceptance unless otherwise expressly specified.</p> <p>2.2. The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order, the Buyer Materials and any applicable Specification</p>	<p>submitted by the Buyer are complete and accurate in all respects.</p> <p>2.3. The Contract shall incorporate and be subject to these Conditions in all respects and no variation of or addition to these Conditions shall form part of the Contract or be effective unless expressly made or approved by a director of both parties in writing.</p> <p>2.4. All Quotations shall be invitations to treat only and shall not constitute offers capable of acceptance by the Buyer and shall be valid only for a period of 30 (thirty) days from the date of the quotation unless otherwise specifically provided therein.</p> <p>2.5. These Conditions shall override and take the place of any other conditions in any document or other communication used by the Buyer in concluding any contract with the Seller.</p>

- 2.6. In the event that no Quotation or acceptance is given by the Seller and the Seller shall have received an order from the Buyer, provided that the Buyer shall have notice of these Conditions, any contract of sale between the Seller and the Buyer shall be deemed to incorporate these Conditions.
- 2.7. These Conditions embody the entire understanding of the Seller and the Buyer relating to the Contract and save where otherwise provided herein override and supersede all prior promises, representations, understandings or implications relating thereto. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 2.8. Any samples, drawings, descriptive matter or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.9. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

### **3. Specifications, Descriptions and Drawings**

- 3.1. All drawings, designs, sketches and samples prepared by the Seller and, save to the extent that they are Buyer IPRs, the Intellectual Property Rights therein shall remain the property of the Seller and shall be returned to it by the Buyer on demand, at the cost and risk of the Buyer. All such drawings, designs, sketches and samples are confidential and shall not be copied or reproduced or disclosed to any third party without the prior written consent of the Seller.
- 3.2. If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, or any Buyer Materials are to be used in the manufacturing process, the Buyer shall indemnify the Seller against all liabilities, loss, damages, costs and expenses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Seller 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 such Buyer Materials and/or specification. This condition shall survive termination of the Contract.
- 3.3. The Seller reserves the right to make any changes in the specification of the Goods which are: (i) required to conform with any applicable laws, regulations, statutory requirements or industry best practice, in each case in any jurisdiction; or (ii) where the Goods are to be supplied to the Seller's specification, and such changes would not (in the reasonable opinion of the Seller) materially affect their quality or performance.
- 3.4. No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all liabilities, loss, damages, costs and expenses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.
- 3.5. The Buyer is responsible for ensuring that the Goods and the Specification of the Goods, including but not limited to the materials therein, are suitable in all respects for the products identified by the Buyer for packaging with the Goods, including any products of third parties, and shall indemnify the Seller in respect of any claims, demands, losses, fines and liabilities incurred by the Seller relating to the suitability of the Goods and their materials for the packaging of the end product to be stored therein. The Buyer acknowledges that it is responsible for any required testing which arises in regard to the intended use of the Goods.

### **4. Price of the Goods**

- 4.1. The price of the Goods is the price set out in the Order Acknowledgment. In case Goods are delivered without an Order Acknowledgment being issued, the price of the Goods shall be the price set out in the Quotation.
- 4.2. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, increases in taxes or duties, increases in the costs of labour, materials, transportation, energy or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods 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.
- 4.3. Unless otherwise set out in the Order Acknowledgment, all prices are given by the Seller on an Ex-Works basis and where the Seller agrees to deliver the Goods otherwise than by Ex-Works, the Buyer shall be liable to pay the Seller's charges for transport (including export/import duties if any), packaging and insurance, which shall be invoiced and payable in accordance with condition 5.
- 4.4. The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
- 4.5. The cost of pallets, boxes, packages and other returnable containers may be charged to the Buyer in addition to the

price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date. The risk and cost of return of such items will be with the Buyer.

- 4.6. Shortages or surpluses within the permitted delivery variations (as per condition 6.7) shall be charged pro-rate the agreed price of the Goods.

## **5. Terms of Payment**

- 5.1. Subject to condition 8.4, and subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after completion of delivery of the Goods. The Seller is entitled to invoice Tooling costs and any sums payable under condition 5.3 at any time.
- 5.2. Subject to condition 8.4, the Buyer shall pay each invoice within 30 (thirty) days from the date of invoice and the Seller shall be entitled to recover all sums due, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of each invoice shall be of the essence of the Contract.
- 5.3. All preliminary work (including but not limited to the costs of acquiring or preparing appropriate tools where necessary, printing preparation tools and supports, sample or test runs) done by the Seller at the request of the Buyer in relation to the Contract or the Goods or materials used in conjunction therewith shall be paid for by the Buyer upon receipt of the invoice from the Seller.
- 5.4. If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries to the Buyer; appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer), and charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 6% (six per cent) above the base rate of Barclay's Bank Plc per month (calculated on a day today basis) until payment in full is made.
- 5.5. The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Seller 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 Seller to the Buyer.

## **6. Delivery**

- 6.1. Unless otherwise set out in the Order Acknowledgment, the Goods shall be delivered Ex-Works Seller's factory. If agreement is made that Goods are sold under Incoterms DAP, it is to be understood delivered ready for unloading, to the delivery point set out in the Order Acknowledgment.

- 6.2. Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods which is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or other instructions, Buyer Materials or information which are requested or required by the Seller in order to supply the Goods. Time for delivery shall not be of the essence of the Contract. The Goods may be delivered by the Seller in advance of the quoted delivery date, and if this occurs the Seller shall use reasonable endeavours to give the Buyer notice of early delivery.
- 6.3. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.4. If the Seller fails to deliver the Goods (or any instalment) for any reason other than a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or other instructions, Buyer Materials or information which are requested or required by the Seller in order to supply the Goods and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.5. If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of a Force Majeure Event or by reason of the Seller's failure to comply with the Contract) then, without prejudice to any other right or remedy available to the Seller, the Seller may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage.
- 6.6. If Goods are delivered by the Seller making them available for collection from its premises, and within 5 Business Days after the day on which the Seller notified the Buyer that the Goods were ready for collection the Buyer has not taken delivery of them, the Seller 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. Where Goods are manufactured to the Buyer's Specification or using the Buyer Materials where resale of the Goods would infringe or would be likely to infringe the Intellectual Property Rights of the Buyer or a third party, the Seller shall be entitled to destroy or dispose of the Goods accordingly and charge the Buyer for any shortfall below the price of the Goods.
- 6.7. The Seller shall be deemed to have fulfilled its Contract by delivery of quantities plus or minus 10% (ten percent).
- 6.8. Goods are not returnable and no credit will be given for Goods returned without the Seller's prior agreement in writing. In the case of Goods returned with the Seller's

agreement, a restocking charge of 30% (thirty percent) of the price of the Goods will be levied. The Buyer acknowledges and agrees that the restocking charge is calculated based on a reasonable pre-estimate of the Seller's loss as a result of restocking, and covers the Seller's logistics costs for completing the re-stocking of these items within its warehouse, and related internal management and administration costs.

- 6.9. Any query regarding delivery documentation and invoices shall be notified to the Seller within 30 (thirty) days of the date of invoice. If the Buyer does not notify the Seller accordingly the Buyer shall be deemed to have accepted the sufficiency and accuracy of such delivery documentation and invoices and shall accordingly pay the price on the due date.
- 6.10. The Buyer will notify the Seller in circumstances where the Goods are to be exported outside of the United Kingdom, and shall, within 60 days of the date of invoice, provide the Seller with such information and evidence as the Seller considers necessary in its absolute discretion, to establish that the Goods were in fact exported from the United Kingdom, (including but not limited to details of the consignor and all methods of transport, the export destination, the mode of transport, the route of the export movement and evidence of the date of departure from the UK) and the Buyer hereby agrees that it will procure the consent of any and all consignors to allow the provision of such information to the Buyer.
- 6.11. The Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including but not limited to any liability for VAT in relation to the sale of the Goods, 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 professional costs and expenses) suffered or incurred by the Seller arising out of or in connection with the Buyer's breach or negligent performance or non-performance of condition 6.10 of the Contract. This condition 6.11 shall survive termination of the Contract.

## **7. Export Terms**

- 7.1. Where the Goods are supplied for export from the United Kingdom, the provisions of this condition 7 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 7.2. Where Goods are delivered FOB to the air or sea port of shipment as set out in the Order Acknowledgment, the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.
- 7.3. The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
- 7.4. On any sale of Goods being sold for export from the United Kingdom where the Seller is not responsible for delivery outside of the United Kingdom, the Buyer will within 60

days of the date of invoice, provide the Seller with such information and evidence as it considers necessary in its absolute discretion, to establish that the Goods were in fact exported from the United Kingdom, (including but not limited to details of the consignor and all methods of transport, the export destination, the mode of transport, the route of the export movement and evidence of the date of departure from the UK) and the Buyer hereby agrees that it will procure the consent of any and all consignors to allow the provision of such information. In the event that the Buyer is unable to provide the evidence of export required by this condition 7.4, then the Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including but not limited to any liability for VAT, 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 professional costs and expenses) suffered or incurred by the Seller arising out of or in connection with the Buyer's breach or negligent performance or non-performance of this condition.

## **8. Minimum Order Quantity**

- 8.1. Where a Minimum Order Quantity is set out in the Quotation and/or Order Acknowledgment, and unless the Order Acknowledgment sets out a specified timeframe for delivery of instalments of the Minimum Order Quantity, the Buyer shall, subject to the requirements of condition 8.3, issue any call-off respecting the Minimum Order Quantity. The Seller and Buyer shall agree on delivery time on a case by case basis and Seller shall use reasonable endeavours to deliver the Goods subject to the relevant call off within the agreed timeframe which shall not exceed 12 weeks from the date of manufacture of the Goods.
- 8.2. The Buyer shall not be entitled to call off Goods over and above the Minimum Order Quantity in the Order Acknowledgment, and any further order for Goods shall be subject to a separate agreement between the parties. Nevertheless, Seller shall make reasonable efforts to accommodate requests of the Buyer for orders below or above the Minimum Order Quantity not exceeding 10%.
- 8.3. Where a Minimum Order Quantity is set out in the Order Acknowledgment, all Goods within that quantity must be called off for delivery by the Buyer within the period of 12 calendar weeks from the date of manufacture of the Goods.
- 8.4. In the event of termination of the Contract in accordance with its terms, the Buyer shall be deemed, as at the effective date of termination, to have issued an order for any amount of Minimum Order Quantity not ordered as at the date of termination, and the Conditions shall remain in force in regard to the provision of such Goods, provided that in respect of this deemed order the Buyer shall be required to pay immediately as at the time of order.

## **9. Risk and Property**

- 9.1 Risk of damage to or loss of the Goods shall pass to the Buyer on completion of delivery as determined by the applicable Incoterm.
- 9.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, title to the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other amounts due under other invoices and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 9.3 Until such time as title in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business.
- 9.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 9.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

#### **10. Warranties and Liability**

- 10.1. Subject to the conditions set out below the Seller warrants that the Goods will conform in all material respects with their specification at the time of delivery.
- 10.2. Subject to condition 10.3, if:
- 10.2.1. the Buyer gives notice to the Seller within 7 (seven) days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure; and
- 10.2.2. the Seller is given a reasonable opportunity of examining such Goods; and acknowledges the existence of such defect or failure; and
- 10.2.3. the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business, the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full, together with the transport costs incurred by the Buyer for the return of the defective Goods under article 10.2.3. This will be the sole remedy of the Buyer.
- 10.3. The Seller shall not be liable for the Goods' failure to comply with the warranty set out in condition 10.1 in any of the following events:
- 10.3.1. the defect in the Goods arises from use of the Buyer Materials or a Specification supplied by the Buyer;

- 10.3.2. the defect arises from failure, breakdown, malfunction or breakage arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing) for storage or handling or use, misuse or alteration or repair of the Goods without the Seller's approval;
- 10.3.3. if the total price for the Goods has not been paid by the due date for payment.
- 10.4. The above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Seller shall, where possible, procure that the Buyer is provided with the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.
- 10.5. All warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law, including but not limited to the terms implied by sections 13 to 15 of the Sale of Goods Act 1979.
- 10.6. In the case of printed Goods, the Seller will not accept liability or responsibility for any infringement of Intellectual Property Rights and the Buyer will hold the Seller harmless from any liability therefrom. The Seller will not be liable or responsible for any errors in proofs which have been passed by the Buyer.

#### **11. Liability**

- 11.1. Nothing in these Conditions shall exclude the Seller's liability for:
- 11.1.1. death or personal injury caused by the Seller's negligence,
- 11.1.2. fraudulent misrepresentation; or
- 11.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- 11.1.4. any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
- 11.2. Subject to condition 11.1:
- 11.2.1. the Seller shall under no circumstances whatsoever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 11.2.2. the Seller's total liability under or in connection with the Contract (whether in contract, tort (including negligence) breach of statutory duty, or otherwise shall not exceed the price of the Goods.
- 11.3. Insofar as the Seller is under a duty pursuant to s.6 of the Health and Safety at Work Act 1974 in respect of the design, manufacture and supply of any article for use at work the Buyer shall be deemed to have been afforded by the Seller reasonable opportunity for the testing and examination of goods or materials prior to delivery to the Buyer in respect of their safety and any risk to health and the Buyer shall be deemed to have been afforded by the Seller adequate information about the Goods and materials in respect of the use for which they are designed and have been tested and of any conditions necessary to ensure that when put to use they will

be safe and without risk to health whether or not the said information has been requested by the Buyer.

## **12. Tooling and Intellectual Property**

- 12.1. No representation, warranty or indemnity is given by the Seller that the Goods do not infringe any letters patent, trademarks, registered designs or other industrial property rights.
- 12.2. The Buyer shall own all of the Buyer IPRs and the Seller shall own all of the Seller IPRs.
- 12.3. The Seller shall own all the Intellectual Property Rights in all Improvements.
- 12.4. All Tooling supplied by the Seller in relation to the Goods remain the property of the Seller whether or not a charge is made to the Buyer in respect of their use.
- 12.5. Where the Buyer has provided Tooling to the Seller, the Seller will not be responsible for insurance and maintenance of the Tooling. On termination or expiry of the Contract the Buyer shall be entitled to reclaim that the Tooling shall be put at its disposal for collection. If no such reclaim is received by the Seller within 3 months after termination or expiry of the Contract, the ownership of that Tooling shall pass to the Seller immediately upon expiration of the 3-month period and the Seller shall be free to make use of the Tooling as it sees fit.

## **13. Termination**

- 13.1. Without prejudice to any other right or remedy available to the Seller under the Contract or at law, the Seller shall be entitled to terminate the Contract, or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary, in the event that:
  - 13.1.1. the Buyer commits a breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within 10 days of being notified to do so;
  - 13.1.2. the Buyer takes any step or action in connection with entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purposes of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
  - 13.1.3. an encumbrancer takes possession or a receiver is appointed, of any of the property or assets of the Buyer; or the Buyer ceases, or threatens to cease, to carry on business; or the Seller reasonably apprehends that any of the events mentioned above in conditions 13.1.1 and 13.1.2 is about to occur in relation to the Buyer and notifies the Buyer accordingly; or
  - 13.1.4. the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's

capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

## **14. Printing, Sketches, Buyer's Requirements**

- 14.1. All new product concepts, sketches, drawings, models, designs and original work produced by the Seller in relation to any product changes remain the property of the Seller. Alterations from original copy on and after first proof will be charged extra. Proofs of all work may be submitted for the Buyer's approval and no responsibility will be accepted for any errors in proofs, which may be passed by him. The Buyer shall be wholly responsible (in respect of copyright, trade mark, design, all common law and statutory rights and otherwise howsoever) for any matter or work which they instruct the Seller to print or perform and for any design, sketch, drawing, painting, construction, work or thing which they supply and/or instruct the Seller to supply or execute and for all claims by third parties arising therefrom and the Buyer shall keep the Seller indemnified against all proceedings, claims, costs, expenses and liability whatsoever in respect thereof.

## **15. General**

- 15.1. The Buyer shall not assign the Contract or any part thereof or any rights thereunder in whole or in part without the prior written consent of the Seller. The Seller 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.
- 15.2. Any 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 and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, or commercial courier. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in this condition 15.2; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed. The provisions of this condition shall not apply to the service of any proceedings or other documents in any legal action.
- 15.3. No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 15.4. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected.

- 15.5. The Contract shall be governed by and construed in accordance with the laws of England, and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts as regards any dispute arising under or in connection with these Conditions or the sale of the Goods.
- 15.6. The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control, including but not limited to Act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any government, parliamentary or local authority; pandemics or epidemics; import or export regulations or embargoes, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party); difficulties in obtaining raw materials, labour, fuel, parts, machinery or goods and services from suppliers, at reasonable price and in reasonable timeframe; power failure or breakdown in machinery (however arising).
- 15.7. Confidentiality.
- 15.7.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by condition 15.7.2. For the purposes of this condition, group means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
- 15.7.2. Each party may disclose the other party's confidential information:
- 15.7.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this condition 15.7; and
- 15.7.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.7.2.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.