



Terms & Conditions

These terms and conditions (“**Terms**”) set out our terms of business which apply to any contract for the supply of products by us to you (“**Contract**”) unless otherwise agreed in writing by us.

You warrant and represent that in placing an E-Order (as defined in clause 2.4) or an Order (as defined in clause 2.11) you do so as a business customer (that is, either wholly or mainly in connection with a business, trade, craft or profession) and not as a consumer.

Further, you acknowledge and agree that consumer regulation (including the Consumer Rights Act 2015, Consumer Protection Act 1987 and the Consumer Contract (Information, Cancellation and Additional Charges) Regulations 2013) shall not apply to the Contract and that you will not be able to rely on any right or remedy as may be contained in such consumer regulation.

1. INFORMATION ABOUT US

- 1.1 We are Cambrionix Limited, a company registered in England and Wales under company number 06210854 (“**we**” and “**us**”) and our registered office and trading address is St John’s Innovation Centre, Cowley Road, Cambridge CB4 0WS. Our VAT number is GB972164510.
- 1.2 You may contact us by telephoning our customer service team at +44 (0) 1223 755 520 or by emailing us at sales@cambrionix.com. If you wish to give us formal notice of any matter in accordance with these Terms, please see clause 20.
- 1.3 We supply:
 - 1.3.1 modular charging and docking stations for electronic devices (“**Standard Products**”);
 - 1.3.2 component parts and ancillary devices (including power leads) related to the modular charging and docking stations (“**Component Products**”);
 - 1.3.3 original equipment manufacturer products relating to modular charging and docking stations (“**OEM Products**”); and

1.3.4 any of our Standard Products, Component Products and/or OEM Products (and any combination thereof) which have been designed or modified specifically for you against a specification provided by you to us (“**Customised Products**”),

(together, the “**Products**”).

2. **HOW THE CONTRACT IS FORMED BETWEEN YOU AND US**

2.1 If you order Products on our website the provisions of clause 2.4 to clause 2.8 (inclusive) will apply. Please note, you cannot purchase OEM Products and/or Customised Products on our website.

2.2 If you order the Products offline by Quotation (as defined in clause 2.9) the provisions of clause 2.9 to clause 2.14 (inclusive) will apply.

2.3 The provisions of clause 2.15 and clause 2.16 will apply in either case.

2.4 When ordering Standard Products and/or Component Products on our website, please follow the onscreen prompts to place an order (“**E-Order**”). Each E-Order is an offer by you to purchase the Standard Products and/or Component Products specified in the E-Order subject to these Terms.

2.5 Our E-Order process allows you to check and amend any errors before submitting your E-Order to us. Please check the E-Order carefully before confirming it. You are responsible for ensuring that your E-Order is complete and accurate.

2.6 After you place an E-Order, you will receive an email from us acknowledging that we have received it, but please note that this does not mean that your E-Order has been accepted.

2.7 Our acceptance of your E-Order takes place when we send an email to you to accept it or otherwise confirm in writing that we accept it, at which point the Contract between you and us will come into existence (“**E-Order Confirmation**”).

2.8 If we are unable to supply you with the Standard Products and/or Component Products for any reason, we will inform you of this by email and we will not process your E-Order. If you have already paid for the Products, we will refund you the full amount including any delivery costs charged as soon as possible.

2.9 In these Terms, “**Quotation**” shall mean a quotation sent by us to you for the supply of Products.

2.10 The Quotation will specify whether it is for Standard Products, Component Products, OEM Products and/or Customised Products (or any combination thereof).

- 2.11 If you wish to proceed with the Quotation, you must send us an email (to the email address given on the quotation) stating the quote number of the Quotation and confirming that you wish to purchase the Products in accordance with the Quotation (“**Order**”).
- 2.12 Your Order constitutes an offer by you to purchase the Products on these Terms and in accordance with the particular Quotation. You are responsible for ensuring that any specification provided by you and incorporated in our Quotation is complete and accurate.
- 2.13 Each Order shall be deemed to be a separate offer by you to buy the Products on these Terms and in accordance with the particular Quotation which we will be free to accept or decline at our absolute discretion. The Order shall only be deemed to be accepted when we issue a written acceptance (excluding issuing a subsequent Quotation) of the Order (“**Order Confirmation**”), at which point the Contract shall come into existence.
- 2.14 The Quotation (and any subsequent Quotation) shall not constitute an offer. A Quotation shall only be valid for a period of 30 days from its date of issue.
- 2.15 These Terms apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. You waive any right you might otherwise have to rely on any term endorsed upon, delivered with or contained in any of your documents (including any purchase order) that is inconsistent with these Terms.
- 2.16 Any samples, drawings, designs, schematics, descriptive matter, or advertising produced by us and any descriptions or illustrations contained in our catalogues, brochures or website are produced for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract or have any contractual force.

3. **WARRANTIES AND CONFIRMATIONS**

- 3.1 You warrant and confirm that you:
- 3.1.1 have authority to bind any business on whose behalf you purchase our Products in accordance with these Terms; and
 - 3.1.2 will not use any of the Products for military or weapons application or in life-critical applications including medical devices (“**Restricted Purposes**”) and you will indemnify us against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses we do or will incur or suffer (“**Losses**”) and all claims or proceedings made or brought or threatened against us by any person and

all losses, liabilities or costs (on a full indemnity basis), damages and expenses that we do or will incur or suffer as a result of defending or settling any such actual or threatened claims or proceedings (“**Liabilities**”) of any such prohibited use of the Products.

4. **OUR RIGHT TO VARY THESE TERMS**

- 4.1 We may amend these Terms from time to time.
- 4.2 Every time you order Products from us, the Terms in force at the time of your E-Order or Order (as the context requires) will apply to the Contract between you and us.
- 4.3 We reserve the right to amend any specification in respect of the Products (if applicable) (“**Specification**”) if required by any applicable statutory or regulatory requirements.
- 4.4 If we have to revise these Terms as they apply to your E-Order or Order (as the context requires), we will contact you to give you reasonable advance notice of the changes and let you know how to cancel the Contract if you are not happy with the changes. You may cancel either in respect of all the affected Products or just the Products you have yet to receive. If you opt to cancel, you will have to return any relevant Products you have already received and we will arrange a full refund of the price you have paid.

5. **DELIVERY**

- 5.1 Unless otherwise agreed by us in writing, we will provide you with an approximate estimated delivery date in our E-Order Confirmation or Order Confirmation (as the context requires) (“**Estimated Delivery Date**”).
- 5.2 Delivery of a Product in respect of an E-Order or Order accepted by us shall be completed when we deliver the Product(s) to the address you gave us in the E-Order or as set out in the Order Confirmation (as the context requires) (“**Delivery Location**”) and delivery is completed on the unloading of the Products at the Delivery Location.
- 5.3 We make every effort to deliver our Products promptly, but the Estimated Delivery Date is not guaranteed and time of delivery is not of the essence. Delays in the delivery of a Product shall not entitle you to:
 - 5.3.1 refuse to take delivery of any such Product;
 - 5.3.2 claim damages; or
 - 5.3.3 terminate the Contract.

- 5.4 We shall have no liability for any failure or delay in delivering any Product if and to the extent that such failure or delay is caused by:
- 5.4.1 a Force Majeure Event (as defined in clause 19); and/or
 - 5.4.2 your failure to comply with your obligations in accordance with these Terms; and/or
 - 5.4.3 your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Products,
- 5.5 If you fail to accept delivery of the Products within three business days (being a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business (“**Business Days**”)) of us notifying you that the Products are ready, then, except where such failure or delay is caused by our failure to comply with our obligations under the Contract:
- 5.5.1 delivery of the Products shall be deemed to have been completed at 09:00 on the third Business Day after the day on which we notified you that the Products were ready; and
 - 5.5.2 we will store the Products until delivery takes place, and charge you for all related costs and expenses (including insurance).
- 5.6 If ten Business Days after the day on which we notified you that the Products were ready for delivery and you have not accepted actual delivery of them, we may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to you for any excess over the price of the Products or charge you for any shortfall below the price of the Products.
- 5.7 If we deliver up to and including 5% more or less than the quantity of the OEM Products ordered, you may not reject them, but on receipt of notice from you that the wrong quantity of Products was delivered, a pro rata adjustment shall be made to our invoice.
- 5.8 We may deliver the Products by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.

6. **SOFTWARE**

- 6.1 In this clause 6, “**Software**” shall mean the free to download software from the Cambrix website available at <https://www.downloads.cambrix.com>.
- 6.2 In consideration of you purchasing the Standard Products and/or Customised Products which incorporate the Standard Products, you shall be permitted to use the

Software subject to you agreeing to our end user licence agreement available at [\[URL\]](#) (as may be updated or amended from time to time).

- 6.3 We also offer a software-as-a-service application known as “Connect”. You acknowledge and agree that any use of “Connect” is subject to an additional contract with us.

7. OEM PRODUCTS

- 7.1 The provisions of this clause 7 will apply if your Order is for OEM Products.

- 7.2 You warrant and confirm that:

7.2.1 you will not purport to represent us or act as a reseller of our Products and will only sell our OEM Products as part of a larger value-added system manufactured by you or by a third party on your behalf;

7.2.2 you will not use any of the OEM Product(s) for the Restricted Purposes;

7.2.3 you will integrate the OEM Product(s) in your system product in a safe manner, and in particular and without limitation in such a way that:

7.2.3.1 the system product in which the OEM Product is so integrated complies with the information technology equipment safety requirements embodied in BS EN IEC 62368-1:2020+A11:2020 (as may be updated, amended or replaced from time to time);

7.2.3.2 you correctly house the OEM Product(s) in a fire enclosure; and

7.2.3.3 the power supply in or to the OEM Products comply with such specification as is notified to you by us from time to time.

- 7.3 You will indemnify us against all Losses and Liabilities in each case arising out of or in connection with any claim by a third party in respect of the integration of the OEM Products in your system product in an unsafe manner or in breach of clause 7.2.

- 7.4 All OEM Products will be provided with basic technical support (if required). If substantive technical support is requested by you, we will use our reasonable commercial endeavours to fulfil such support requirements at our then prevailing hourly rates under a separate agreement.

- 7.5 For the avoidance of doubt, we do not take responsibility for, or give any warranty in relation to the performance of, the products (including any Products previously supplied by us) into which the OEM Products are integrated.

8. **ACCEPTANCE, DEFECTIVE PRODUCTS AND WARRANTY CLAIMS**
- 8.1 In these Terms, "**Warranty Period**" means 24 months from the date of delivery of each Product or such other period as specified:
- 8.1.1 on our website; or
 - 8.1.2 in our Quotation (and confirmed in our Order Confirmation).
- 8.2 We warrant that the Products supplied to you by us under the Contract shall conform in all material respects to any Specification and shall be free from significant defects in design, material and workmanship and remain so for the Warranty Period.
- 8.3 The warranty contained in clause 8.2 is subject to this clause 8 and clause 16.
- 8.4 If any Product does not comply with clause 8.2 we may, at our option, replace, repair or refund such Product without further charge to you provided that:
- 8.4.1 written notice of rejection by you is given to us during the Warranty Period (attributable to the particular Product) in the case of a latent defect within a reasonable time of discovery of a latent defect or within seven days of delivery in the case of defects apparent on normal visual inspection that some or all of the Products do not comply with the warranty set out in clause 8.2;
 - 8.4.2 subject to our consent and direction, you return such Product to us for tests and fault evaluation; and
 - 8.4.3 none of the events listed in clause 8.5 apply.
- 8.5 We shall not be liable for Products' failure to comply with the warranty set out in clause 8.2 in any of the following events:
- 8.5.1 you make any further use of such Products after giving notice in accordance with clause 8.4;
 - 8.5.2 the defect arises because you failed to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
 - 8.5.3 the defect arises as a result of us following any drawing, design or a Specification which has been provided by you;
 - 8.5.4 in the case of Standard Products, the defect arises out of your failure to download and use the latest Maintenance Release of the Software;

- 8.5.5 alteration or repair of such Products without our written consent;
 - 8.5.6 the Product shows evidence of having been tampered with or damaged as a result of misuse or other operating conditions contrary to our authorisation or advice;
 - 8.5.7 the defect arises as a result of wilful damage, negligence, incompetence, misuse, abuse mishandling, inappropriate or improper interfacing, operation beyond design specification or abnormal storage or working conditions;
 - 8.5.8 we have not been afforded the opportunity to advise further where questions arise in relation to the suitability of the Products for their intended application;
 - 8.5.9 the Products differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or
 - 8.5.10 in the case of OEM Products', if the defect arises because you failed to comply with the safety requirements specified in BS EN IEC 62368-1:2020+A11:2020 (as may be updated, amended or replaced from time to time) or the other requirements of clause 7.2.
- 8.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 8.7 The terms of this clause 8 shall apply to any repaired or replacement Products supplied by us.
- 8.8 Except as provided in this clause 8, we shall have no liability to you in respect of the Products' failure to comply with the warranty set out in clause 8.2.
- 8.9 In the exceptional circumstances in which we agree that modifications to the Products may be carried out by you, we reserve the right to amend the terms of our warranty at our sole discretion and/or to charge for advisory services, and you agree to this condition prior to making any such modifications.
9. **TITLE AND RISK**
- 9.1 Risk in the Products shall pass to you on completion of delivery pursuant to clause 5.2.
- 9.2 Title to the Products shall not pass to you until the earlier of:

- 9.2.1 the date we receive payment in full (in cash or cleared funds) for such Products in which case title to the Products shall pass at the time of payment of all sums; and
- 9.2.2 you resell the Products, in which case title to the Products shall pass to you at the time specified in clause 9.4.
- 9.3 Until title to the Products has passed to you, you shall:
 - 9.3.1 store the Products separately from all other goods held by you so that they remain readily identifiable as our property;
 - 9.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to such Products;
 - 9.3.3 maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 9.3.4 notify us immediately if you become subject to any of the events in listed in clause 17.1.3 to clause 17.1.8 (inclusive); and
 - 9.3.5 give us such information as we may reasonably require from time to time relating to the Products and your ongoing financial position.
- 9.4 Subject to clause 9.5, you may resell or use the Products in the ordinary course of your business (but not otherwise) before we receive payment for the Products. However, if you resell the Products before that time:
 - 9.4.1 you do so as principal and not as our agent; and
 - 9.4.2 title to the Products shall pass from us to you immediately before the time at which the resale by you occurs.
- 9.5 At any time before title to the Products passes to you we may:
 - 9.5.1 by notice in writing, terminate your right under clause 9.4 to resell the Products or use them in the ordinary course of your business; and
 - 9.5.2 require you to deliver up all Products in your possession which have not been resold, or irrevocably incorporated into another product and if you fail to do so promptly, we may enter any premises of yours or of any third party where the Products are stored in order to recover them.

10. **INTELLECTUAL PROPERTY RIGHTS**

10.1 In this clause 10, “**Intellectual Property Rights**” means patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim 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.

10.2 You acknowledge and agree that:

10.2.1 subject to any licensing or third-party owners (as the context requires), we are the sole legal and beneficial owner of all of the Intellectual Property Rights relating to the Products;

10.2.2 all Intellectual Property Rights in or arising out of or in connection with the Customised Products shall be owned by us and we shall be free to use any such Intellectual Property Rights at our discretion at any time in any manner; and

10.2.3 all materials, equipment, documentation (including originals and copies) and other property related to the design, manufacture and modification of the Products shall be our exclusive property and owned by us.

10.3 If and to the extent that any of the Products are to be manufactured and/or modified in accordance with a specification supplied by you, you will indemnify us against all Losses and Liabilities in each case arising out of or in connection with us manufacturing and/or modifying any Products in accordance with your instructions (including pursuant to any specification provided by you).

10.4 You shall not repackage the Products and/or remove any copyright notices, confidential or proprietary legends or identification from the Products.

11. **CUSTOMISED PRODUCTS**

11.1 You shall not have the right to cancel the Order from the time we issue an Order Confirmation and you shall be liable in full for payment of the Order from such time. Without prejudice to the foregoing, cancellation of the Order by you will only be accepted at our discretion and on the condition that any cost, charges and expenses already incurred (including any charges that will be levied by a subcontractor on account of their expenses, work or cancellation conditions) by us will be reimbursed by you to us on demand.

- 11.2 Unless otherwise agreed in writing by us, receipt of payment for the design work and/or a minimum order quantity of Customised Products as specified by us is required in cleared funds by us in advance of the design and manufacture of the Customised Products. We may cancel an Order in respect of which payment is not received within 30 days of the date of acceptance of the Order.
- 11.3 If any modifications or variations to either the design or manufacture of the Customised Products (“**Modifications**”) are required then, if we accept the Modifications, we reserve the right to increase the price of the Customised Products accordingly. We shall give you written notification of any such increase and if such increase is not acceptable you shall notify us accordingly in writing in seven days from the date of receipt of our written notification, in which case the Modifications shall not apply. If you do not notify us within such time then you will be deemed to have accepted such price increase on the seventh day from the date of receipt of our written notification and you shall be liable for such additional amount.
- 11.4 We may require payment in advance in respect of any Modifications as a condition of carrying out the Modifications.

12. **INTERNATIONAL DELIVERY**

- 12.1 We may deliver to countries outside the UK (“**International Delivery Destinations**”). However, we reserve the right at any time to revoke such agreement and, if an alternative delivery destination cannot be agreed between us then we will refund the price you have paid, including any delivery charges.
- 12.2 If we agree delivery to an International Delivery Destination, your E-Order or Order (as the context requires) may be subject to import consents, duties and taxes which are applied when the delivery reaches that destination. Please note that we have no control over these consents, duties and taxes and in the case of duties and taxes, we cannot predict their amount. In the case of import consents, we may request that you make these available before we make the shipment of the Products. Please contact your local customs office for further information before placing your E-Order or Order (as the context requires).
- 12.3 You must comply with all applicable laws and regulations of the country for which the Products are destined. We will not be liable or responsible if you break any such law.

13. **PRICE OF PRODUCTS AND DELIVERY CHARGES**

- 13.1 The price of the Products shall be the price set out in the E-Order Confirmation or Order Confirmation (as the context requires), or, if no price is quoted in the case of an Order only, the price set out in our published price list in force at the date of delivery.

- 13.2 Without prejudice to clause 18, we may, by giving notice to you at any time up to 5 days before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:
- 13.2.1 any factor beyond our control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 13.2.2 any request by you to change the delivery date(s), quantities or types of Products ordered, or any Specification; or
 - 13.2.3 any delay caused by any of your instructions or failure of you to give us adequate or accurate information or instructions.
- 13.3 The price of the Products is exclusive of the costs and charges of packaging, insurance and transport of the Products, which shall be charged to you. In addition, the price of the Products is exclusive of import duties and taxes and you shall be responsible for such amount as per clause 12.2 above.
- 13.4 The price of the Products is exclusive of amounts in respect of value added tax (“VAT”). You will pay to us such additional amounts in respect of VAT as are chargeable on the supply of the Products.

14. **HOW TO PAY**

- 14.1 If you order the Products by E-Order, the provisions of clause 14.4 to clause 14.6 (inclusive) will apply.
- 14.2 If you order the Products by Quotation, the provisions of clause 14.7 to clause 14.11 (inclusive) will apply.
- 14.3 The provisions of clause 14.12 to clause 14.14 (inclusive) apply in either case.
- 14.4 If you order Products on our website you can only pay for the Products using a debit card or credit card. We accept the cards as identified on our website.
- 14.5 Payment for the Products and all applicable charges payable in accordance with clause 13.3 are payable in advance.
- 14.6 For any failed or cancelled payments of the Products, we will charge a £20.00 administration fee.
- 14.7 Where you order Products by Quotation, we may invoice you for the Products on or at any time after we have provided you with the Order Confirmation.

- 14.8 If we are unable to fulfil your Order we will cancel the invoice submitted. If you have already paid that invoice, we will provide you with a full refund as soon as reasonably practicable after you have provided us with bank details to return such sums to.
- 14.9 You shall pay each invoice submitted by us:
- 14.9.1 within 30 days of the date of the invoice or in accordance with any credit terms agreed by us and confirmed in writing to you; and
- 14.9.2 in full and in cleared funds to a bank account nominated in writing by us.
- 14.10 Time for payment of our invoices shall be of the essence of the Contract.
- 14.11 Unless otherwise agreed in writing by us, receipt of payment for the Products and all applicable delivery charges is required in cleared funds by us in advance of the despatch of the Product(s) to you. We may cancel an Order in respect of which payment is not received within 30 days of the date of the invoice.
- 14.12 If you fail to make any payment due to us under this Contract by the due date for payment, then, without limiting any other remedies we may have, you shall pay interest on the overdue amount at the rate of 5% per annum above Barclays Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.
- 14.13 You 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). We may, at any time, without limiting any other rights or remedies that we may have, set off any amount owing to us by you against any amount payable by us to you.
- 14.14 Confirmation of Payee is a new system in place to provide greater levels of assurance that payments made are going to the correctly intended recipient. For more information on Confirmation of Payee you can visit the [UK Finance website](#), or [Lloyds TSB](#) and learn more.

15. **CONFIDENTIALITY**

- 15.1 You undertake that you will not at any time disclose to any person any confidential information concerning our business, affairs, clients or suppliers and any other information of a confidential nature (including all technical or commercial know-how, specifications, designs, schematics, inventions, processes or initiatives which have been disclosed to you by us, our employees, agents or subcontractors), except as permitted by clause 15.2.

- 15.2 You may disclose our confidential information:
- 15.2.1 to your employees, officers, representatives or advisers who need to know such information for the purposes of exercising your rights or carrying out your obligations under or in connection with the Contract and you will ensure that your employees, officers, representatives or advisers to whom you disclose our confidential information materially comply with this clause 15; and
 - 15.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.3 You shall not use our confidential information for any purpose other than to exercise your rights and perform your obligations under or in connection with the Contract.

16. **OUR LIABILITY**

- 16.1 Nothing in these Terms limits or excludes our liability for:
- 16.1.1 death or personal injury caused by our negligence;
 - 16.1.2 fraud or fraudulent misrepresentation;
 - 16.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 - 16.1.4 any other liability which cannot be limited or excluded by applicable law.
- 16.2 Subject to clause 16.1, we will under no circumstances whatever be liable to you, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- 16.2.1 any loss of profits;
 - 16.2.2 loss of sales or business;
 - 16.2.3 loss of revenue;
 - 16.2.4 loss of use or corruption of data, information or software;
 - 16.2.5 loss of business opportunity;
 - 16.2.6 loss of agreements or contracts;
 - 16.2.7 loss of anticipated savings;
 - 16.2.8 loss of goodwill; and/or

- 16.2.9 any indirect or consequential loss.
- 16.3 Subject to clause 16.1, our total liability to you in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed in the case of an Order the price of the Products as specified in our Order Confirmation or in the case of an E-Order, the total value of your E-Order as confirmed in our E-Order Confirmation.
- 16.4 Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Products. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Products are suitable for your purposes.
- 16.5 For the avoidance of doubt, we shall not be liable in relation to any loss or damage that may result from the use of the Products other than if and to the extent set out in these Terms and any guidance or instruction manuals as issued by us from time to time.

17. **TERMINATION**

- 17.1 Without limiting any of our other rights, we may suspend the supply or delivery of the Products to you, or terminate the Contract with immediate effect by giving written notice to you if:
- 17.1.1 you commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within seven days of you being notified in writing to do so;
- 17.1.2 you fail to pay any amount due under the Contract on the due date for payment;
- 17.1.3 you (being a company) take any step or action in connection with you entering administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- 17.1.4 you (being a company) take any step or action in connection with it applying to court for, or, obtaining a moratorium under Part A1 of the Insolvency Act 1986;
 - 17.1.5 you (being an individual) are deemed either unable to pay your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - 17.1.6 you (being an individual) are the subject of a bankruptcy petition, application or order;
 - 17.1.7 you suspend, threaten to suspend, or cease or threaten to cease to carry on all or a substantial part of your business; or
 - 17.1.8 your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy.
- 17.2 Termination of the Contract shall not affect your or our rights and remedies that have accrued as at termination.
- 17.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
18. **BREXIT**
- 18.1 If at any time after Brexit, a Brexit Trigger Event occurs which has or is likely to have an Adverse Impact on us, we may:
- 18.1.1 increase the price of the Products by an amount equal to the imposition of new or additional tariffs on us in relation to the transfer of goods and/or the provision of services into the UK or any other increase in the costs of goods and/or services wholly or in part attributable to Brexit; and
 - 18.1.2 require you to negotiate an amendment to the Contract to alleviate the Adverse Impact and if renegotiation fails, terminate the Contract in accordance with clause 18.5.
- 18.2 In this clause **Brexit** means the UK ceasing to be a member state of the European Union on 31 January 2020.
- 18.3 In this clause **Brexit Trigger Events** means any of the following events caused by Brexit:

- 18.3.1 a change in the Law or a new requirement to comply with any existing Law or existing Law ceasing to apply to you or us (for these purposes, **Law** means any legal provision either you or us must comply with including without limitation any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, enforceable EU right within the meaning of section 2 of the European Communities Act 1972 (as saved and modified by the European Union (Withdrawal) Act 2018), bye-law, regulation, order, mandatory guidance or code of practice, judgment of a court of law, or requirement of any regulatory body, whether in the UK or elsewhere);
 - 18.3.2 in any jurisdiction, the imposition of, or a change to, a duty, tax or levy imposed on imports or exports of the Products;
 - 18.3.3 in any jurisdiction, the loss of, a change to or the imposition of a new requirement for any licence or consent required by us to perform the Contract or to commercially exploit the Products including without limitation any export licences; or
 - 18.3.4 an unforeseeable (as at the date of your E-Order or Order (as the context requires)) change to the business or economic environment in which we operate which is not caused by clause 18.3.1 to clause 18.3.3.
- 18.4 In this clause an **Adverse Impact** means any one of the following:
- 18.4.1 an adverse impact on our ability to perform the Contract in accordance with these Terms and the Law;
 - 18.4.2 an increase in the costs incurred by us in complying with your obligations since the price for the Products was last agreed; and
 - 18.4.3 the price of the Products under the Contract is lower than the market value for similar products or services.
- 18.5 If we fail to agree a variation with you within 14 days of the date of us notifying you that we wish to renegotiate, we may, without affecting any other right or remedy available to it, terminate the Contract by giving you not less than 14 days' written notice.
- 18.6 Save as expressly provided in this clause 18, neither a Brexit Trigger Event nor an Adverse Impact shall terminate or alter (or give you or us a right to terminate or alter) the Contract, or invalidate any of the Terms or discharge or excuse performance under it. If there is an inconsistency between the provisions of this clause and any other provision of the Contract (including these Terms), the provisions of this clause shall prevail.

19. **FORCE MAJEURE**

19.1 **Force Majeure Event** means any circumstance not within our reasonable control including, without limitation:

- 19.1.1 acts of God, flood, drought, earthquake or other natural disaster;
- 19.1.2 epidemic or pandemic (including COVID-19);
- 19.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- 19.1.4 nuclear, chemical or biological contamination or sonic boom;
- 19.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- 19.1.6 collapse of buildings, fire, explosion or accident;
- 19.1.7 national emergency;
- 19.1.8 malicious damage or theft;
- 19.1.9 any labour or trade dispute, strikes, industrial action or lockouts;
- 19.1.10 general unavailability of the internet;
- 19.1.11 non-performance by our suppliers or subcontractors; and/or
- 19.1.12 interruption or failure of utility service.

19.2 If we are prevented, impeded, hindered or delayed in or from performing any of our obligations under the Contract by a Force Majeure Event, we will not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

19.3 The provisions of this clause 19 shall apply whether or not a Force Majeure Event was foreseeable.

20. **COMMUNICATIONS BETWEEN US**

20.1 When we refer, in these Terms, to “in writing”, this will include email but not fax.

- 20.2 Notice given under the Contract shall be in writing, sent to such addresses as specified in these Terms or to such other addresses as may be notified by from you to us (and vice versa) from time to time and shall be delivered personally, sent by email or sent by pre-paid, first-class post or recorded delivery.
- 20.3 A notice is deemed to have been received:
- 20.3.1 if delivered personally, at the time of the delivery;
 - 20.3.2 in the case of email, 09:00 the Business Day following transmission;
 - 20.3.3 in the case of airmail, five Business Days following posting; or
 - 20.3.4 in the case of prepaid first class post or recorded delivery two Business Days from the date of posting.
- 20.4 To prove service, it is sufficient to prove that the notice was transmitted by email, to the email address of you or us (as the context requires) or, in the case of post, that the envelope containing the notice was properly addressed.
- 20.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

21. **OTHER TERMS**

- 21.1 Any words following the terms **including, include, in particular** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms
- 21.2 We will not be under any obligation to mitigate, or procure the mitigation of, any of the losses, liabilities, costs, damages and expenses to which the indemnities in these Terms apply.
- 21.3 The Contract constitutes the entire agreement between you and us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between you and us, whether written or oral, relating to its subject matter.
- 21.4 You acknowledge that in entering into this Contract you do not rely and shall have no remedies in respect of, on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms or any document expressly referred to in them.
- 21.5 You acknowledge that you will have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms or any document expressly referred to in them.

- 21.6 It is acknowledged and agreed that nothing in clause 21.1 to clause 21.5 (inclusive) shall limit or exclude any liability for fraud.
- 21.7 We may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of our rights and obligations under the Contract.
- 21.8 You may only assign or transfer your rights or your obligations under the Contract to another person if we agree in writing.
- 21.9 Any variation of the Contract only has effect if it is in writing and signed by you and us (or our respective authorised representatives).
- 21.10 This Contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 21.11 Each of the clauses of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the unlawful or unenforceable clause shall be deemed deleted and the remaining clauses will remain in full force and effect.
- 21.12 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 21.13 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 the law of England and Wales.
- 21.14 You irrevocably agree with us 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).