

HOMELUX NENPLAS

CONDITIONS OF SALE

1. Interpretation

1.1 In these Conditions:

“Bespoke Goods”	means Goods produced to the Customer’s specification in respect of which the Company is providing the Services;
Business Day	means any day (other than Saturday) on which clearing banks are open for normal banking business in sterling in the City of London;
“Confidential Information”	means all secret or confidential commercial, financial and technical information, know how, trade secrets, inventions, computer software and other information whatsoever and in whatever form or medium and whether disclosed orally or in writing, together with all reproductions in whatsoever form or medium and any part or parts of it;
“Contract”	means the contract made between the Company and the Customer for supply of the Goods and/or the Services which is subject to these Conditions;
Customer	means the party with whom the Company contracts;
Dies	has the meaning given in Condition 14.1.2;
“Goods”	means all or any of the goods works and materials to be supplied by the Company (including where applicable Bespoke Goods);
“Insolvency Event”	means any one or more of: <ul style="list-style-type: none">• a notice being issued to propose a resolution for winding up or dissolution, or such a resolution being passed;• a petition for a winding up or an administration or bankruptcy order being presented, or such an order being made;• any steps being taken with a view to a voluntary arrangement or other assignment, composition or arrangement with all or any creditors or any moratorium, readjustment, rescheduling, forgiveness or deferral of all or any indebtedness;• suspension of payments to all or any creditors and/or ceasing business;• an encumbrancer taking possession of all or any assets of a party;• an administrator or receiver being appointed over a party or all or any of its assets;

- any action anywhere similar or analogous to any of the foregoing;
- the other party having reasonable grounds for believing that any of the foregoing is imminent;

For the avoidance of doubt if any of the foregoing occur in relation to a partner in any of the parties hereto it shall be deemed to occur in relation to that party.

“Services” means any design, tooling and/or other services to be performed by the Company in performance of the Contract.

- 1.1.1 A reference to a 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.
- 1.1.2 Words in the singular include the plural and in the plural include the singular.
- 1.1.3 A reference to one gender includes a reference to the other gender.
- 1.1.4 Condition headings do not affect the interpretation of these conditions.

2. Basis of contract

- 2.1** Any quotation shall remain open for a maximum period of thirty days from its date and may be withdrawn or altered by the Company at any time within such period without notice. Quotations are not binding and shall not be open for acceptance by the Customer. Where Goods are quoted for supply from stock they are quoted subject to being unsold when the Customer’s order is accepted.
- 2.2** These Conditions shall form the terms and conditions of the Contract and shall apply to the exclusion of any terms or conditions whether put forward by or on behalf of the Customer in or on its order or otherwise or whether implied by law (insofar as the exclusion of the same is lawful). The Customer 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 the Contract. Nothing in this condition shall exclude or limit the Company’s liability for fraudulent misrepresentation.
- 2.3** The placing by the Customer of any order, whether written (which for the purposes of Conditions 2 and 3 shall include any agreed form of electronic communication) or oral, shall constitute an offer by the Customer. No contract shall come into existence until the Company accepts the Customer’s order in writing or (if earlier) the Company delivers the Goods to the Customer. Any order placed by the Customer with any of the Company’s salesmen or other employees or representatives shall be subject to written acceptance by the Company. By the act of placing the order the Customer expressly represents and warrants to the Company that it is not insolvent and is not subject to an Insolvency Event.
- 2.4** No alteration to these Conditions shall be effective unless expressly agreed to in writing by a director of the Company.
- 2.5** Any typographical fault or other error or omission in any literature, quotation, price list, acceptance of order, invoice or other document issued by the Company in respect of the Goods and/or Tooling

Services to be provided under these Conditions shall be subject to correction without any liability on the part of the Company.

3. Information, samples and materials supplied

3.1 The Customer shall be responsible to the Company for ensuring the accuracy, completeness and sufficiency of its order (including of any applicable specification and/or sample). The Company shall be entitled to vary the price of the Goods and/or Tooling Services where:-

- 3.1.1 the Customer requests an amendment to the order and/or specification for the Goods and/or the Services (including without limitation requests for additional testing, changes in respect of materials, design or weight (whether or not required as a legal or regulatory requirement)) and such amendment is accepted in writing by the Company; and/or
- 3.1.2 there are errors or omissions in the Customer's order (including any applicable specification and/or sample).

3.2 Where samples are to be supplied by the Company they shall be delivered at the Customer's risk and expense and risk in the samples shall remain with the Customer until such time as they are returned to the Company. The Customer shall as soon as reasonably practicable and in any event within 30 days after receipt of the same notify the Company in writing that the samples are in all respects satisfactory or of any respect in which the samples are not satisfactory. In default of such notification the Customer shall be deemed to have given notification that the samples are satisfactory in all respects and the Company shall be entitled but not bound to proceed in the manufacture of the remainder of the Contract.

4. Delivery

4.1 Any time quoted by the Company for delivery of all or any of the Goods and/or performance of all or any of the Tooling Services is an estimate only and time shall not be of the essence. If no dates are specified, delivery shall be within a reasonable time. The Company shall not be liable for any failure to meet any such estimate, nor for any loss, of whatsoever nature resulting directly or indirectly therefrom.

4.2 The Company reserves the right to deliver all or any of the Goods and/or the Tooling Services in advance of the estimated date.

4.3 In the absence of agreement to the contrary delivery of the Goods shall be made by the Customer collecting the Goods at the Company's premises as soon as practicable following notification from the Company that the Goods are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering the Goods to that place.

4.4 Where delivery is to take place otherwise than at the Company's premises, the Buyer shall provide at its cost adequate and appropriate equipment and manual labour for unloading the Goods at the alternate location.

4.5 The Company reserves the right to deliver by instalments and each delivery shall constitute a separate contract to which these Conditions shall apply. Failure by the Company to deliver any one or more of the instalments or any claim by the Customer in respect of any one or more instalments

shall not entitle the Customer to treat the Contract as a whole as repudiated.

- 4.6** Where delivery of the Goods is to be made by the Company in bulk, the Company reserves the right to deliver up to 10 per cent more or less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered. The Customer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for the Goods in accordance with the quantity ordered.
- 4.7** The quantity of any consignment of Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 4.8** If the Customer fails to take delivery of or collect the Goods or fails to give the Company adequate delivery instructions after notification by the Company that the Goods are ready the Company may (without prejudice to its other rights and remedies)
- 4.8.1 store the Goods (on its own or any third party's premises) and charge the Customer for its reasonable costs (including without limitation VAT costs of storage, carriage and insurance); and/or
 - 4.8.2 sell the Goods at any time and after deducting all costs and expenses account to the Customer for any excess over the price already paid under the Contract or charge the Customer for any shortfall between the Contract price and such costs and expenses.
- 4.9**
- 4.9.1 Notification of short delivery (measured by weight or number) or damage in transit must be made in writing to the Company within 5 Business Days of the receipt of the Goods;
 - 4.9.2 Notification of non-delivery must be made in writing to the Company within 14 Business Days after the date of the Company's invoice;
 - 4.9.3 The Company shall at its option either make good the whole or part of the price (and where relevant, as a deduction from any part of the price remaining unpaid) or by repair or replacement any such non-delivery short delivery or damage notified as aforesaid and save as provided in this Condition 4.9.3 shall not be liable for any such non-delivery short delivery or damage in transit nor for any loss, financial or otherwise resulting directly or indirectly therefrom. In no event shall the Company be liable to the Customer in connection with any damage or loss in transit where delivery takes place at the Company's premises.
- 4.10** All returnable containers and packing materials will be charged for, but credit will be given if these are returned in condition satisfactory to the Company to the Company's works carriage paid within thirty days following delivery of the relevant Goods. In no circumstances will any cash payment be made to the Customer in respect thereof.
- 4.11** 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 for the amount paid by the Customer to the Company for the Goods which have not been delivered at the pro rata Contract rate against any invoice raised for such Goods.
- 4.12** Subject to the other provisions of these conditions the Company shall not be liable for any direct,

indirect or consequential loss (all three of which terms depending on the circumstances 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 and/or provision of the Services (even if caused by the Company's negligence).

5. Description

- 5.1** Save in respect of Bespoke Goods, all descriptive and technical specifications, drawings, catalogues, illustrations and particulars of weight and dimensions supplied by the Company are approximate only and, subject always to Condition 5.2, the Company reserves the right without notice to the Customer to make alterations thereto provided that such alterations do not materially affect the characteristics of the Goods.
- 5.2** The Company reserves the right to make any changes to the specification of the Goods (including Bespoke Goods) which are required to conform with any applicable safety or other statutory requirement, provided that it shall give prior notice of such change to the Customer. Where the Company makes an alteration the Goods in accordance with this Condition 5 it shall supply the Goods so altered in performance of the Contract .

6. Cancellation

Following acceptance by the Company of the Customer's order, no cancellation and/or suspension, either in whole or in part, may be made by the Customer other than with the prior written consent of a director of the Company and upon terms that the Customer shall indemnify the Company in full against all loss (including without limitation loss of profit) damages, costs (including without limitation the cost of all labour, manufacture and materials), expenses and other liabilities awarded against or incurred by the Company as a result of or in connection with the cancellation and/or suspension.

7. Price

- 7.1** Subject to prior written agreement to the contrary, the Company shall be entitled to invoice the Customer for the price of the Goods on or at any time after the Company has notified the Customer that the Goods are ready for collection or the Company has tendered delivery of the Goods.
- 7.2** Unless otherwise agreed in writing any price quoted by the Company shall be the price set out in the Company's price list current as at the date of quotation. The price charged to the Customer under the Contract may be changed to take account of prices stated in the Company's price list current at the date of invoice.
- 7.3** Unless otherwise expressly stated in writing, all prices are exclusive of all costs or charges in relation to packaging, loading, unloading, carriage and insurance and VAT which shall be charged where appropriate at the rate prevailing at the relevant tax point.
- 7.4** Time for payment shall be of the essence.
- 7.5** No payment shall be deemed to have been received until the Company has received cleared funds.
- 7.6** Where the Customer collects the Goods at the Company's premises the Company may require the Customer to make payment in full at the time of collection, otherwise the Customer shall make payment in full without deduction or set off within thirty days following the date appearing on the Company's invoice or within such other period as may be agreed in writing by the Company

notwithstanding that the delivery may not have taken place and the property in the Goods may not have passed to the Customer. Interest at the annual rate of 3% over the base rate of Yorkshire Bank will be charged on a daily basis on all monies outstanding after the due date until the actual date of payment (both before and after judgment), and any cash or early payment discount will not be allowed to the Customer.

7.7 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

7.8 Where payment is agreed to be made by instalments, any delay or default by the Customer in making payment in respect of any one instalment shall render all the remaining instalments due forthwith, and interest will be charged in accordance with condition 7.6 with immediate effect until the date of actual payment.

7.9 The Company may appropriate any payment made by the Customer to such of the Goods (or the goods supplied under any other contract between the Company and the Customer) as the Company may think fit (notwithstanding any purported appropriation by the Customer).

8. Risk and title

8.1 Risk in the Goods shall pass to the Customer immediately on delivery to the Customer or into custody on the Customer's behalf whichever is the sooner.

8.2 Notwithstanding delivery and the passing of risk, property in and title to the Goods shall remain in the Company until the Company has received (in cash or cleared funds) payment of the full price of (a) all Goods and/or Services the subject of the Contract and (b) all other goods and/or services supplied by the Company to the Customer under any other contract whatsoever.

8.3 Until property in and title to the Goods passes to the Customer

8.3.1 the Customer shall hold the Goods on a fiduciary basis as the Company's bailee;

8.3.2 the Customer shall keep the Goods properly stored, protected and insured and separate from all or any other goods whether belonging to the Company the Customer or any third party at no cost to the Company; and

8.3.3 the Customer shall not make any modification to the Goods or their packaging or alter remove or tamper with any marks, numbers or other means of identification used on or in relation to the Goods.

8.4 The Customer may resell the Goods before ownership has passed to it solely on the following conditions:

8.4.1 any sale shall be effected in the ordinary course of the Customer's business at full market value;

8.4.2 any such sale shall be a sale of the Company's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale; and

8.4.3 the Customer shall first dispose of the Goods that it has paid for and

any payments received by the Company from the Customer shall first be appropriated to Goods disposed of by the Customer.

- 8.5** The Company shall be entitled at any time to revoke the Customer's power to use, sell and deal with the Goods.
- 8.6** Notwithstanding Condition 8.4, the Customer's power to use, sell and/or deal with the Goods shall automatically cease if the Customer shall commit or be subject to an Insolvency Event or if the Customer encumbers or in any way charges any of the Goods.
- 8.7** Upon termination of the Customer's power to deal with the Goods, the Customer shall place the Goods at the disposal of the Company and the Company and its servants and agents are hereby irrevocably authorised without the need for consent of any third party but using only such force as may be necessary, to enter upon any premises of the Customer or any third party for the purpose of removing the Goods.
- 8.8** Where the Company is unable to determine whether any Goods are the goods in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all goods of the kind sold by the Company to the Customer in the order in which they were invoiced to the Customer.
- 8.9** On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights contained in this Condition 8 shall remain in effect.
- 8.10** If any of the foregoing provisions of this Condition shall be invalid or unenforceable such invalidity or unenforceability shall not affect the remaining provisions.

9. Termination and suspension

- 9.1** Without prejudice to any rights and remedies available to it, the Company shall be entitled, forthwith on written notice to the Customer either to terminate the Contract wholly or in part and/or any other contract with the Customer or to withhold performance of all or any of its obligations under the Contract and/or any other contract with the Customer (and on the giving of such notice all monies outstanding from the Customer to the Company shall become immediately due and payable) if:-
- 9.1.1 any sum owing to the Company from the Customer on any account whatsoever shall be unpaid after the due date for payment (in which event the Company shall have a general lien for any such sum on all and any property of the Customer in its possession including (without limitation) any Dies); or
 - 9.1.2 an Insolvency Event shall occur in respect of the Customer; or
 - 9.1.3 the Customer shall commit any breach of any contract (including without limitation the Contract) with the Company; or
 - 9.1.4 the Customer shall refuse to provide any security for credit; or
 - 9.1.5 if in its absolute discretion the Company considers the Customer's credit to be unsatisfactory.
- 9.2** In the event of a suspension of performance the Company shall be entitled, as a condition of resuming performance, to require pre-payment, or such security as it may require.

10. Warranty

10.1 The Company shall:

- 10.1.1 make good at its option by reimbursement of the whole or part of the price (and, where relevant, as a deduction from any part of the price remaining unpaid) or by repair or by replacement:-
 - 10.1.1.1 subject to Condition 5 any failure by the Goods to correspond with their specification at the time of delivery;
 - 10.1.1.2 any defect developing under normal use in the Goods and due solely to faulty design (except where the design is supplied by or on behalf of the Customer) materials and/or workmanship;
- 10.1.2 make good by reimbursement of the price or by reperformance of the Services any defective workmanship in the performance of the Services; provided that:
- 10.1.3 any failure to meet specification is notified in writing to the Company within 5 Business Days from the date of delivery or (where the failure was not apparent on reasonable inspection) within a reasonable time after discovery of the failure and in any event such failure must be notified within 1 month after delivery;
- 10.1.4 any such defect in design, materials and/or workmanship shall have appeared within 1 month after delivery and shall have been thereupon promptly notified to the Company in writing;
- 10.1.5 the Company shall be under no liability in respect of any defect in the Goods arising from any drawings, design or specification supplied by the Customer;
- 10.1.6 the Company shall be under no liability in respect of any defect arising from fair wear and tear, or other acts of the Customer including without limitation wilful damage, negligence, lack of proper maintenance or servicing, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Company's approval;
- 10.1.7 the Company shall be under no liability until any monies due from the Customer under the Contract have been paid in full; and
- 10.1.8 any Goods alleged to be defective are promptly made available to the Company for inspection and, if so required by the Company, are promptly returned at the Customer's risk and expense to the Company's premises for inspection.
- 10.1.9 the above warranty does not extend to parts, materials or equipment not manufactured by the Company in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company and can be transferred.

10.2 Provided that nothing in this Condition shall operate so as:-

- 10.2.1 to exclude the Company's non-excludable liability in respect of death or personal injury caused by the negligence of the Company its servants or agents;

- 10.2.2 to affect the statutory rights of the Customer where Goods are sold or the Services are supplied to a Customer dealing as a consumer within the meaning of Unfair Contract Terms Act; or
- 10.2.3 to exclude the application of Section 12 of the Sale of Goods Act 1979;
- 10.2.4 to exclude liability for fraudulent misrepresentation.

10.3 The Company shall not be liable to the Customer in contract tort (including without limitation negligence) and/or breach of statutory duty for any loss or damage which the Customer may suffer by reason of any act, omission, neglect or default (including negligence) in the performance of the Contract by the Company its servants or agents, [in a sum which is greater than the Contract price].

10.4 The Company shall not be liable to the Customer in contract tort (including without limitation negligence) and/or breach of statutory duty for any loss of profits and/or loss of production or any indirect or consequential (including economic) loss of any kind which the Customer may suffer by reason of any act, omission, neglect or default (including negligence) in the performance of the Contract by the Company, its servants or agents.

10.5 The Customer shall (without prejudice to the Company's other rights and remedies) indemnify the Company in full against all loss, costs, damages, charges, expenses and other liabilities awarded against or incurred by the Company as a result of or in connection with:

- 10.5.1 any claim brought against the Company by a third party arising out any matter in respect of which the Company's liability to the customer is excluded under this Condition 10; and
- 10.5.2 any liability that the Company has to a third party in respect of the Goods pursuant to Part 1 of the Consumer Protection Act 1987.

10.6 Save as provided in these Conditions all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract

11. Health and safety

For the purposes of Section 6(8) of the Health and Safety at Work Etc Act 1974 the Customer undertakes to comply with all instructions relating to the Goods received from the Company from time to time and to take such other steps sufficient to ensure, so far as is reasonably practicable, that the Goods will at all times be safe and without risk to health when being properly used, set, cleaned and maintained by a person at work.

12. Intellectual property rights

12.1 If any claim is made against the Customer that the Goods infringe or that their use or resale infringes the patent, copyright, database right, design right, registered design, trade mark or other industrial or intellectual property rights of any other person or any claim is made in respect of passing off or unauthorised use of Confidential Information in relation to the Goods and/or their use or resale the Customer shall forthwith notify the Company in writing and the Company shall be given full control of any proceedings or negotiations in connection with any such claim. The Customer shall give the Company all reasonable assistance for the purposes of any such proceedings or negotiations and except pursuant to a final award, the Customer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Company (which shall not be unreasonably withheld). The Customer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Company may have in relation to such infringement.

12.2 If the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with a specification, design or drawing submitted by the Customer or the Customer's instructions, the Customer shall (without prejudice to the other rights and remedies of the Company) indemnify the Company in full against all loss, costs, damages, charges, expenses and other liabilities awarded against or incurred by the Company as a result of or in connection with

- 12.2.1 any claim for infringement of any patent, copyright, database right, design right, registered design, trade mark or other industrial or intellectual property rights of any other person and/or for passing off and/or unauthorised use of Confidential Information which results from the Company's use of the Customer's specifications;
- 12.2.2 any other liability of any kind to any third party including without limitation for defective Goods, personal injury or death to the extent that it arises from the specification and/ or any error or omission therein.

13. Export terms

13.1 Any term or expression which is defined in the provisions of Incoterms 2000 (or any subsequent revision thereof) shall import the respective obligations of Buyer and Seller into these Conditions, but in the event of conflict these Conditions shall prevail.

13.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 13 shall (subject to any special terms agreed in writing between the Company and the Customer) apply not withstanding any other provision of these Conditions.

13.3 Unless otherwise agreed in writing between the Company and the Customer, the Goods shall be delivered FOB UK port and the Company shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

13.4 The Customer shall be responsible for arranging for testing and inspection of the Goods at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Goods which would be apparent on testing or inspection and which is made after shipment, or in respect of any damage during transit.

13.5 Payment of all amounts due to the Company shall be made by irrevocable letter of credit opened by the Customer in favour of the Company and confirmed by a bank in England acceptable to the Company or, if the Company has agreed in writing on or before acceptance of the Customer's order to waive this requirement, by acceptance by the Customer and delivery to the Company of a bill of exchange drawn on the Customer payable 60 days after sight to the order of the Company at such branch of Yorkshire Bank in England as may be specified in the bill of exchange.

14. Services

14.1 If the Contract is for or to include the Services to be performed by the Company the following provisions shall apply:-

- 14.1.1 The Company shall only be obliged to carry out Services during normal working hours and shall be entitled to charge for any overtime worked upon request by the Customer;

- 14.1.2 any tool, mould or die (hereinafter together referred to as “Dies”) provided entirely or partly at the Company’s expense shall be and shall remain the Company’s property and shall remain in its possession at all times notwithstanding that the Customer may have made payment to the Company in respect of a proportion of the cost of such Dies;
- 14.1.3 any Dies in respect of which the full cost has been paid by the Customer shall be and shall remain the Customer’s property, provided that the Company shall be granted the right to possess such Dies for the purposes of manufacturing of Goods using the Dies in accordance with the relevant Contract(s) and the Company shall have a general lien over all Dies belonging to the Customer until all sums payable and/or to be paid by the Customer to the Company under the Contract have been paid to the Company in full in cleared funds;
- 14.1.4 the Customer shall sign off and approve in writing within 10 Business Days of the Company’s request to do so all Dies made by the Company before such Dies are used to produce Goods. If the Customer fails (1) to approve the Dies within such period or (2) to notify the Company that the Dies are not in accordance with the Contract and the reasons for such non-compliance the Dies shall be deemed to comply in all respects with the Contract and to be accepted by the Customer;
- 14.1.5 where the Customer has placed an order for the Services to produce Dies only and does not within the period of 10 Business Days following completion of the Services place an order for Goods the Customer shall pay the full cost of the Dies that are provided or produced by the Company in the course of the Services;
- 14.1.6 where the Customer orders a lesser quantity of Goods than is specified in the Company’s quotation or fails to take delivery of the full quantity of Goods within the period stated in such quotation the Company may charge the Customer the full or a proportionate part of the cost of the Dies taking account of any part-payment that has already been made by the Customer in respect of the Dies;
- 14.1.7 the Company shall not use any Dies in respect of which the Customer has made a payment to the Company to manufacture goods for other customers without the prior consent of the Customer;
- 14.1.8 subject to Condition 14.1.10, the Company shall (at its cost) use all reasonable endeavours to store and maintain Dies during their normal useful life, provided that the Company shall not be liable in respect of any loss or damage thereto nor shall the Company be liable to replace any worn-out Dies;
- 14.1.9 where for any reason the Company is unable or unwilling to continue to manufacture the Goods using the Dies following the expiry or termination of the Contract, the Customer may (at its option) elect to purchase such Dies, provided that:
- 14.1.9.1 the Customer has previously made a part-payment to the Company in respect of such Dies;
- 14.1.9.2 the Customer has complied with its obligations under the Contract and any other contracts with the Company;

- 14.1.9.3 the Customer can prove ownership of the Dies to the Company's satisfaction; and
 - 14.1.9.4 the Customer makes payment to the Company in the amount of 100% of the original part cost price paid for the Dies;
- 14.1.10 following the expiry of not less than 3 month's prior written notice to the Customer and the Customer has not collected the Dies within such notice period the Company may destroy any Dies in respect of which the Customer has made a part payment and which have not been used for a continuous period of 2 years;
- 14.1.11 in respect of any Dies for which the Customer has not made full or part payment, the Company may utilise or dispose of such Dies at its discretion following the expiry or termination of the Contract;
- 14.1.12 where the Customer provides Dies to the Company:
 - 14.1.12.1 the Company accepts no responsibility or liability for the repair and maintenance thereof; and
 - 14.1.12.2 the Customer shall indemnify the Company in full against all loss, costs, damages, charges, expenses and other liabilities awarded against or incurred by the Company as a result of or in connection with the use of such Dies; and
 - 14.1.12.3 the Company may from time to time charge the Customer for any repair or replacement of the Dies as and when the same become necessary;
- 14.1.13 where a Die is made in accordance with the Customer's drawing or sample the Customer shall pay the full cost of any subsequent alteration that it requests or which is subsequently necessitated by any error or omission in such drawing or sample.

14.2 Goods and Services supplied on the site of the Customer are at all times at the sole risk of the Customer and if any part is lost or destroyed for any reason whatsoever the Company shall be entitled to charge as a variation to the Contract for the restoration of such Goods and/or Services. The Customer shall for the benefit of itself and the Company insure and keep insured with reputable insurers the full value of Goods and Services against every kind of loss, damage or destruction. The Customer shall produce the policy to the Company upon request together with the latest premium receipts and in default of effecting the same the Company shall be entitled to do so and add the cost of such insurance to the Contract price.

15. General

15.1 It shall be the responsibility of the Customer to ensure that all requirements applicable to the Contract, whether statutory, regulatory, municipal and/or otherwise howsoever, (including without limitation any relating to the importation or use of the Goods in the country of destination and for the payment of duties thereon) are duly complied with. It shall be a condition precedent to the performance by the Company of its obligations under the Contract that all necessary licences, permits and consents shall have been obtained by the Customer.

15.2 Without prejudice to the generality of Condition 15.1 the obtaining of any relevant exchange control consents shall be a condition precedent to the performance by the Company of any of its obligations under the Contract.

- 15.3** Neither party shall have any liability for any failure to perform or for any delay in the performance (other than as to payment) of any of its obligations under the Contract caused by any factor beyond its reasonable control.
- 15.4** The rights and remedies of the Customer in respect of the Contract shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by the Company to the Customer nor by any failure of or delay by the Company in ascertaining or exercising any such rights or remedies. Any release, waiver or compromise or any other arrangement of any kind (a release) by the Company shall not affect its rights and remedies as regards any other party nor its rights and remedies against the Customer in whose favour it is granted or made except to the extent of the express terms of the release and no such release shall have effect unless granted or made in writing. The rights and remedies in this Contract are cumulative and not exclusive of any rights and/or remedies provided by law.
- 15.5** The Contract is personal to the Customer. The Customer shall not assign, transfer or charge its rights and responsibilities under this Contract or any of them, nor appoint any sub-contractor or agent without the prior written consent of the Company not to be unreasonably withheld.
- 15.6** The provisions of the Conditions are severable and distinct from one another, and, if at any time any of the provisions is or becomes invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions shall not in any way be affected or impaired.
- 15.7** The Conditions and the Contract shall not constitute and shall not be deemed to constitute a partnership between the Company and the Customer and the Customer shall not act nor purport to act as agent for the Company but solely as an independent contractor.
- 15.8** All notices under this Contract shall be in writing and may be served by post or facsimile transmission addressed to the other party at the address given in this Contract or at such other address as a party shall from time to time by notice in writing give to the other party for the purpose of service of notices under this Contract and every such notice shall be deemed to have been served by post at the expiration of 3 days after despatch of the same or if sent by facsimile transmission at ten hours local time on the next normal Business Day of the recipient following despatch and in proving service it shall be sufficient to show in the case of a letter that the same was duly addressed prepaid and posted in the manner provided and in the case of a facsimile transmission a transmission report that it was transmitted to the correct telephone number. Saturdays, Sundays and Bank Holidays shall not in any event be treated as days on which service is effected, and service shall be deemed to take place on the next normal Business Day of the recipient.
- 15.9** The Contract shall be governed in accordance with the laws of England and Wales. Any dispute arising under this Contract shall be subject to the exclusive jurisdiction of the English courts and the parties waive any objection to proceedings in such courts on the grounds of venue or on the grounds that proceedings have been brought in an inappropriate forum. In the case of a Customer who has no assets within the jurisdiction of the English Courts and who is established in a country which will not enforce the judgement of the English Courts the Company may if it chooses refer any disputes arising out of the Contract to arbitration under the Rules of Conciliation and Arbitration of the International Chamber of Commerce, such arbitration to take place in London.

16. Third Party Rights

For the avoidance of doubt nothing in these Conditions shall confer on any third party any benefit or the right to enforce any provision of these Conditions