

Terms and conditions of sale

1. Definitions and interpretation

1.1 Definitions In these Conditions, the following definitions apply:

1.1.1 Accepted Order: means the Order accepted in writing by the Supplier as further described in condition

1.1.2 Business Day: means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

1.1. Conditions: means the terms and conditions of sale set out in this document, as amended from time to time by the Supplier.

1.1.4 Contract: means the contract between the Supplier and the Customer for the sale and purchase of the Goods comprising the Conditions and the Accepted Order.

1.1.5 Customer: means the person or firm who purchases the Goods from the Supplier.

1.1.6 Customer Materials: means any materials (including designs, drawings, information, Specifications prepared and submitted by the Customer as part of the Order) or other items or materials) which are provided by the Customer to the Supplier for use in relation to the Order.

1.1.7 Dispute: has the meaning given in condition 14.1

1.1.8 Dispute Notice: has the meaning given in condition 14.1.1

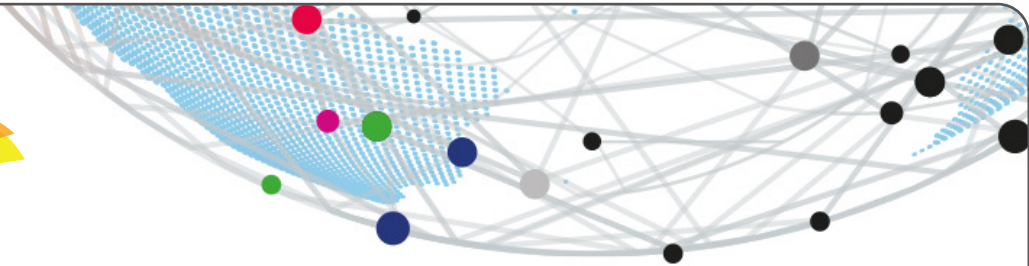
1.1.9 Force Majeure Event: has the meaning given in condition 12

1.1.10 Goods: means the goods (or any part of them) set out in the Order.

1.1.11 Infringements: has the meaning given in condition 11.3

1.1.12 Intellectual Property Rights: means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights belonging to the Supplier and its group members from time to time, including the Tosaf Group and its subsidiaries, 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 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.

1.1.13 Mediation Notice: has the meaning given in condition 14.1.3



1.1.14 Order: means the Customer's order for the Goods, as set out in the Customer's written acceptance of the Supplier's quotation or estimate (as applicable).

1.1.15 Price: has the meaning given in condition 4.1

1.1.16 Specification: means any specification for the Goods, including any related plans and drawings which may be the Supplier's standard specification for the Goods or such specification as is provided by the Customer.

1.1.17 Supplier: means Colloids Limited and/or PW Hall Limited and/or Performance Masterbatches Limited (registered in England and Wales with company number 05058123) or the Supplier group member identified in the Accepted Order.

1.1.18 Supplier IPR: means: (i) all Intellectual Property Rights in and to the Goods and any ancillary materials supplied by the Supplier (including the Specification but excluding the Specification provided by the Customer); and (ii) all other Intellectual Property Rights of the Supplier or any other Supplier group member or their licensors (as the context requires).

1.1.19 Tolerance: has the meaning given in condition 5.7.

1.2 Construction: In these Conditions, the following rules apply:

1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2 a reference to the singular includes the plural and vice versa;

1.2.3 a reference to a party means a **party** to the Contract and includes (where applicable) its personal representatives, successors or permitted assigns;

1.2.4 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.5 any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.6 a reference to **writing** or **written** includes e-mails.

1.3 Where these Conditions indicate that the Supplier's agreement is required, such agreement must be in writing and signed by an authorised representative of the Supplier.

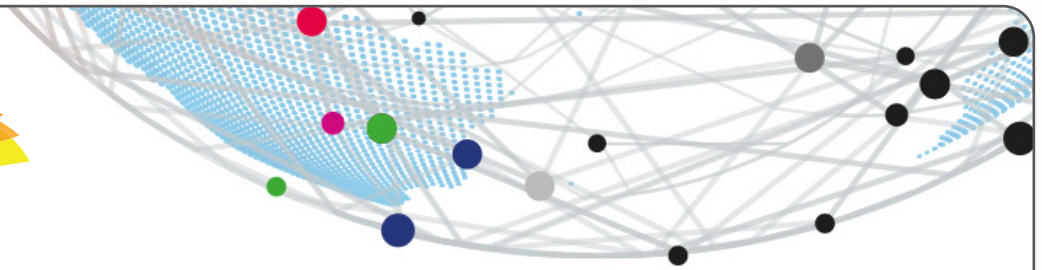
1.4 If there is an inconsistency between any provisions in these Conditions and the Accepted Order then the provisions in these Conditions shall take precedence unless the Accepted Order expressly states that a provision within it shall take precedence in which case that specific provision shall take precedence.

2. Basis of contract

2.1 A quotation or estimate given by the Supplier for the Goods shall not constitute an offer. Unless otherwise agreed in writing by the Supplier, a quotation or estimate shall only be valid for a period of thirty (30) Business Days from its date of issue.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.

2.3 The Customer shall ensure that the terms of the Order, any Customer Materials (including any applicable Specification submitted by the Customer as part of the Order) are complete, suitable and accurate.



2.4 The Order shall be deemed to be accepted and binding on the Supplier only when the Supplier issues written acceptance of the Order (**Accepted Order**), at which point the Contract shall come into existence and the Customer shall have no right to cancel the Order.

2.5 Each Accepted Order shall constitute a separate contract and where delivery is made by instalments, each instalment shall constitute a separate contract. Any default by the Supplier in relation to one Accepted Order shall not entitle the Customer to terminate any other Accepted Order or instalment.

2.6 The Supplier shall have the right to cancel an Order, after acceptance of such Order, should any authority or other entity fail to approve or subsequently withdraw any licences, permissions, authorisations, certifications, consents or permits and which are necessary for the performance of the Order.

2.7 A Contract shall be deemed complete upon completion of delivery of all Goods subject to the Contract and the Supplier has received payment in full for the Goods.

3. Goods

3.1 The Supplier accepts no responsibility for the accuracy or suitability of any Customer Materials or for any defect in the Goods arising from use of such Customer Materials. The Supplier shall be entitled to accept the Customer Materials as being without defect.

3.2 The Supplier reserves the right at any time without notice to amend or otherwise make alterations to the Goods and the Specification of such Goods but shall use reasonable endeavours to notify the Customer of any material amendments or alternations to the same.

3.3 The Customer warrants that the Customer Materials are of appropriate quality and are fit for the purpose of enabling the Supplier to manufacture the Goods in accordance with the Specification. Should the Supplier become aware that the Customer Materials are not of an appropriate quality and/or fit for purpose in accordance with this condition **3.3**, the Supplier shall notify the Customer who shall replace the Customer Materials promptly at its own cost and expense and in accordance with the Supplier's reasonable instructions.

3.4 The Customer shall indemnify the Supplier and keep the Supplier and its employees, subcontractors and agents indemnified on demand from and against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with, the supply, receipt and/or use of the Customer Materials (including any Specification provided by the Customer) (which includes damage to Supplier property and equipment and any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights).

4. Price and Payment

4.1 Unless otherwise stated in the Accepted Order, the price of the Goods shall be the price set out in the Supplier's quotation or estimate (as applicable), or if no price is quoted, the price set out in the Supplier's price list as at the date the Contract comes into existence (**Price**).

4.2 The Supplier may, by giving notice to the Customer at any time before delivery, increase the Price of the Goods to reflect any increase in the cost of the Goods that is due to:

4.2.1 any factor beyond the Supplier's reasonable control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials, energy costs and other manufacturing costs);

4.2.2 any request by the Customer to change the Contract including changes to the delivery dates, quantities or types of Goods ordered and/or the Specification; or

4.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

4.3 Unless stated otherwise in the Accepted Order or expressly agreed in writing by the Supplier, the Price of the Goods is exclusive of:

4.3.1 amounts in respect of value added tax (VAT), which will be charged at the applicable rate. The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods; and

4.3.2 all costs and charges of packaging, insurance and transport.

4.4 The Supplier may invoice the Customer for the Goods on or at any time after the Contract comes into existence.

4.5 The Customer shall pay each invoice in full and in cleared funds and in the currency stated in the Accepted Order within thirty (30) days of the date of the invoice, unless on ordering the Goods alternative payment terms are agreed in writing by the Supplier. Payment shall be made to the bank account nominated in writing by the Supplier.

4.6 Any failure by the Customer to make payment to the Supplier on the due date shall entitle the Supplier at its sole option, without limiting any other right or remedy the Supplier may have, to:

4.6.1 charge interest on the overdue sum at 6% per annum above the Bank of England base rate from time to time or 6% per year for any period when that base rate is below 0%. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment and shall be compounded weekly on the last Business Day of each week. The Customer shall pay the interest together with the overdue amount;

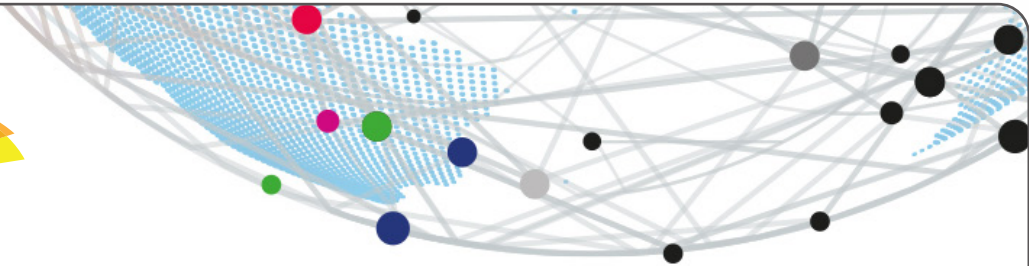
4.6.2 terminate the Contract pursuant to condition **10.1.4**; and/or

4.6.3 suspend performance of its obligations (including delivery of any outstanding Goods) under the Contract and/or any other contracts entered into with the Customer until payment of the overdue sum is received in full and in cleared funds.

4.7 The Customer shall pay all amounts due under the Contract in full. The Customer shall not be entitled to assert any credit, set-off, counterclaim, deduct or withhold against any monies due to the Supplier under the Contract or on any other account whatsoever, except as required by law in respect of the deduction or withholding of tax.

5. Delivery

5.1 Unless and to the extent that it is agreed otherwise in writing between the parties, the Supplier shall make provision for the delivery of the Goods and shall ensure that:



5.1.1 each delivery of the Goods is accompanied by a delivery note which shows, as appropriate, the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable) and special storage instructions (if any); and

5.1.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

5.2 Unless otherwise stated in the Accepted Order, the Supplier shall deliver the Goods ex works Incoterms 2020 by making available the Goods at the Supplier's premises for collection by or on behalf of the Customer between the Supplier's normal business hours on the date which is notified to the Customer by the Supplier. Where delivery is made ex works, the Supplier shall have no responsibility for loading, clearing the Goods for export or liability for or in connection with any damage to or loss of the Goods in transit.

5.3 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately.

5.4 Delivery of the Goods shall be completed on being made available by the Supplier pursuant to condition **5.2** or, if the Accepted Order requires the Supplier to deliver the Goods, when the Goods arrive at the delivery location specified in that Accepted Order.

5.5 The Supplier shall use reasonable endeavours to comply with any dates for delivery of the Goods stated in the Contract or communicated to the Customer, however any such dates are approximate only, and the time of delivery is not of the essence. Accordingly any failure by the Supplier to deliver the Goods by such date shall not be a breach or repudiation of the Contract and the Supplier shall not be liable for any loss or damage suffered by the Customer as a result of such failure.

5.6 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the Price of the Goods.

5.7 The Supplier reserves the right to supply 10% more or less than the exact quantity of the Goods specified in the Accepted Order (**Tolerance**). In the case of:

5.7.1 such under or over delivery, the Supplier shall amend the charges pro rata to reflect the quantities actually supplied;

5.7.2 over delivery in excess of the Tolerance, the Customer may either: (i) take and pay for the quantities actually supplied; or (ii) reject the Goods in excess of the Tolerance (and make them available for collection by the Supplier) and take and pay the Price for the quantities supplied up to the Tolerance; and

5.7.3 under delivery in excess of the Tolerance, the Customer may require the Supplier to either: (i) replace the Goods in excess of the Tolerance; or (ii) refund to the Customer a credit equal to the Price of the Goods in excess of the Tolerance, such credit to be used by the Customer against future Orders only.

5.8 The Customer's exclusive remedies for over or under delivery shall be as set out in condition **5.7** and in any event the Supplier shall have no liability for any claim unless notified in accordance with condition **8.2**

5.9 The Customer will undertake a reasonable inspection of the Goods delivered (taking into account the quantity and nature of the Goods) within three (3) days of receipt of the Goods with a view to checking for any obvious breaches of the warranty given by the Supplier in condition 8. In the event that a breach of such warranty is identified by the Customer, the provisions of condition **8** shall apply.

6. Storage

6.1 In the event of the Customer:

6.1.1 notifying the Supplier of its inability to accept delivery of or collect any Goods on the delivery date notified to it by the Supplier;

6.1.2 failing to give adequate delivery or collection instructions when required to do so;

6.1.3 refusing or failing to accept delivery of or collect the Goods on the delivery date notified to it by the Supplier; or

6.1.4 requesting postponement of delivery of or collection of the Goods which is agreed to by the Supplier,

the Goods will be stored at the sole risk and expense of the Customer as from the time of the relevant notification, failure or agreement, and the Customer shall reimburse the Supplier for all related costs and expenses (including return transport and storage costs) on demand.

6.2 If the Customer fails to collect or accept delivery of the Goods or any part thereof within ten (10) Business Days after the original delivery date notified to it by the Supplier, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the Price of the Goods or charge the Customer for any shortfall below the Price of the Goods.

7. Title and Risk

7.1 The risk in the Goods shall pass to the Customer on completion of delivery or collection (as applicable).

7.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full and cleared funds for the Goods.

7.3 Until title to the Goods has passed to the Customer, the Customer shall:

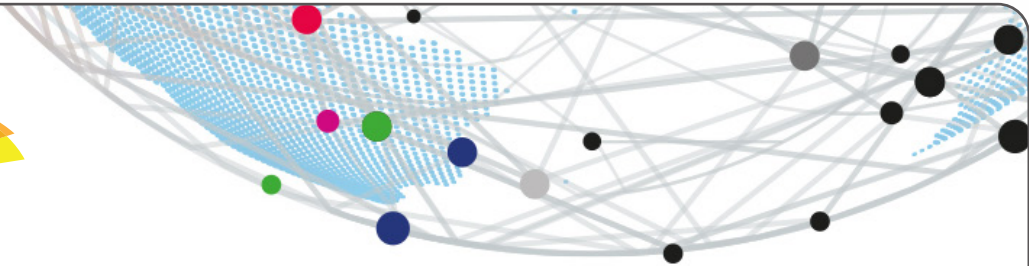
7.3.1 hold the Goods on a fiduciary basis as the Supplier's bailee;

7.3.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

7.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

7.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full Price on the Supplier's behalf;

7.3.5 notify the Supplier immediately if it becomes subject to any of the events listed in condition **10.2**; and **7.3.6** give the Supplier such information relating to the Goods as the Supplier may require from time to time, but, subject to condition **7.4**, the Customer may use the Goods in the ordinary course of its business as from the date the Goods were delivered.



7.4 If before title to the Goods passes to the Customer, the Customer:

7.4.1 becomes subject to any of the relevant events listed in condition 10.2 or the Supplier reasonably believes that any such event is about to happen; or

7.4.2 has failed to pay any amount due under the Contract on the due date,

then, without limiting any other right or remedy the Supplier may have, the Customer's right to use the Goods in the ordinary course of its business or otherwise dispose of the Goods shall cease immediately.

7.5 Following any of the events listed in condition **7.4** occurring, the Supplier may by giving notice to the Customer at any time:

7.5.1 require the Customer to immediately deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product to the Supplier or the Supplier's representative;

7.5.2 if the Customer fails to deliver up the Goods immediately, the Supplier may acting itself or via its representative enter any premises of the Customer or any third party where the Goods are stored in order to recover such Goods; and

7.5.3 require the Customer to pay any outstanding sums owed to the Supplier immediately upon the Supplier's demand.

8. Quality

8.1 The Supplier warrants that on delivery, and for a period of three (3) months from the date of delivery (**Warranty Period**), the Goods shall:

8.1.1 conform in all material respects (and subject to such tolerances as are normally accepted in the trade) with their description and any applicable agreed Specification; and

8.1.2 be fit for any purpose expressly set out in writing by the Supplier.

8.2 Subject to condition **8.3**, if:

8.2.1 the Customer gives notice in writing to the Supplier within three (3) Business Days of becoming aware that some or all of the Goods do not comply with the warranty set out in condition **8.1**;

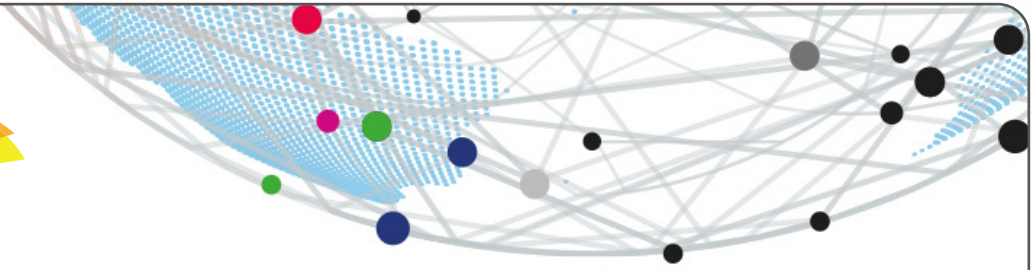
8.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and

8.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost (such cost to be refunded by the Supplier if the Supplier is satisfied that the Goods are defective) or destroy the defective Goods, and the Goods are shown to the reasonable satisfaction of the Supplier to be in breach of the warranty set out in condition **8.1** within the Warranty Period, then the Supplier shall, at its sole option:

8.2.4 repair or replace the defective Goods without additional charge;

8.2.5 refund to the Customer the Price of the defective Goods;

8.2.6 require the Customer to retain the defective Goods and provide the Customer a reasonable reduction to the Price of such defective Goods.



8.3 The remedies set out in condition **8.2** represent the Customer's sole and exclusive remedy in respect of a breach of the warranty set out in condition **8.1**

8.4 The Supplier shall not be liable for any of the Goods' failure to comply with the warranty set out in condition **8.1** in any of the following events:

8.4.1 the Customer makes any further use of such Goods after giving notice in accordance with condition **8.2.1**;

8.4.2 the Goods have not been properly and correctly transported, stored and/or used by the Customer;

8.4.3 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

8.4.4 the defect arises as a result of the Supplier following or using any Customer Materials and/or Specification supplied by the Customer;

8.4.5 the Customer alters or repairs such Goods without the written consent of the Supplier;

8.4.6 the defect arises as a result of fair wear and tear, wilful damage, negligence or working conditions;

8.4.7 the Goods differ from their description and/or Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;

8.4.8 where the purpose of the Goods is set out in the Accepted Order or otherwise agreed in writing by the parties, the Goods are used for a purpose or in such a manner outside that purpose; or

8.4.9 where, as a result of faulty raw materials used in the production of the Goods (and where such fault is unknown by the Supplier), the Goods suffer from a defect which would not be discoverable upon reasonable physical inspection or testing.

8.5 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.

8.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier and for the purposes of condition 8.4 a reference to Customer shall include any third party acting on behalf of the Customer.

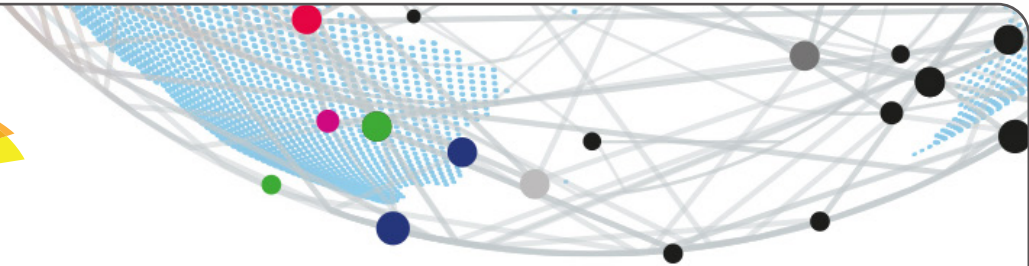
9. Limitation of Liability

9.1 Nothing in the Contract shall limit or exclude liability for:

9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

9.1.2 fraud or fraudulent misrepresentation; or

9.1.3 any matter in respect of which it would be unlawful to exclude or restrict liability.



9.2 Subject to condition 9.1, the Supplier shall under no circumstances whatsoever be liable to the Customer for any:

9.2.1.1 indirect or consequential loss;

9.2.1.2 loss of profit;

9.2.1.3 loss of revenue;

9.2.1.4 loss of use;

9.2.1.5 loss of goodwill;

9.2.1.6 loss of use or corruption of data;

9.2.1.7 loss due to interruption of business; or

9.2.1.8 loss of opportunity,

(in the case of conditions **9.2.1.2** to **9.2.1.8** (inclusive) whether direct or indirect) arising under or in connection with the Contract.

9.3 Subject to conditions **9.1** and **9.2**, the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in equity (including restitution), contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, shall in no circumstances exceed the Price of the Goods as detailed in the Accepted Order, save that should the default relate to part only of the Goods supplied under the Contract, the Supplier's total liability shall not exceed 100% of the aggregate Price of the impacted Goods.

10. Termination

10.1 The Supplier may terminate the Contract (in whole or in part) at any time with immediate effect and/or suspend further performance of its obligations under the Contract by giving written notice to the Customer if:

10.1.1 the Customer commits a material breach of the Contract and such breach is not capable of remedy;

10.1.2 the Customer commits a material breach of the Contract and such breach is capable of remedy but the Customer fails to remedy that breach within fourteen (14) days of the Customer being notified to do so;

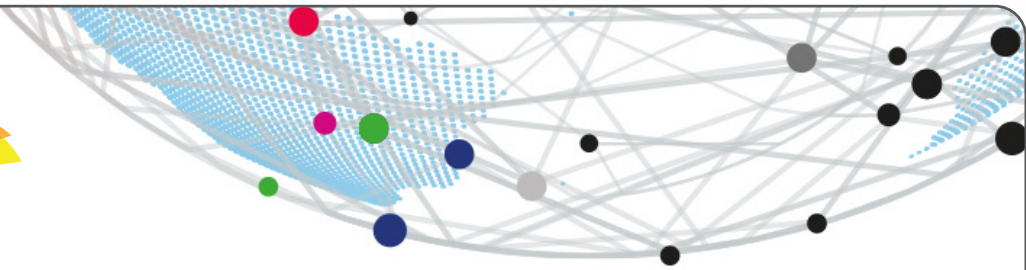
10.1.3 the Customer becomes subject to any of the events listed in condition **10.2**, or the Supplier reasonably believes that the Customer is about to become subject to any such events; or

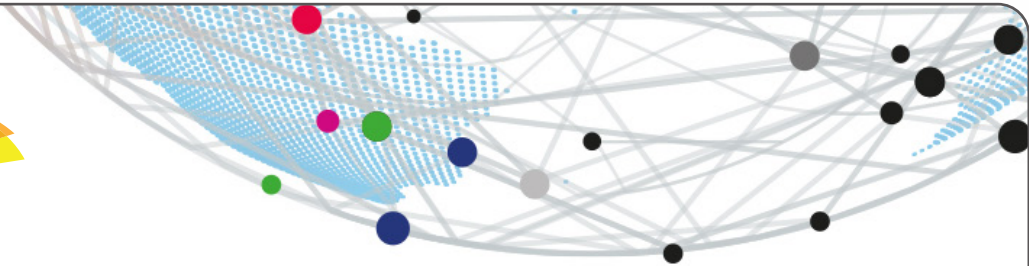
10.1.4 the Customer fails to pay any amount due under the Contract by the due date and such amount remains unpaid within thirty (30) days after the original due date.

10.2 For the purposes of conditions **7.3.5**, **7.4.1** and **10.1.3**, the relevant events are:

10.2.1 the Customer stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;

10.2.2 a receiver, manager, administrator or administrative receiver is appointed over all or any part of the Customer's undertaking, assets or income;

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- 10.2.3** the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- 10.2.4** the Customer becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
- 10.2.5** (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 10.2.6** (being an individual) the Customer is the subject of a bankruptcy petition or order;
- 10.2.7** the Customer is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven (7) days of that procedure being commenced;
- 10.2.8** the Customer has a freezing order made against it;
- 10.2.9** the Customer is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;
- 10.2.10** the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
- 10.2.11** any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events set out in conditions **10.2.1** to **10.2.11** (inclusive); or
- 10.2.12** the Customer takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in conditions **10.2.1** to **10.2.11** including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
- 10.3** The Supplier may terminate the Contract at any time by giving not less than four (4) weeks' notice in writing to the Customer if the Customer undergoes a change of control or if the Supplier reasonably anticipates that the Customer will undergo a change of control within two (2) months. For the purposes of this condition **10.3**, 'control' shall mean beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of a company.
- 10.4** If a party becomes aware that any event has occurred, or circumstances exist, which may entitle the other party to terminate the Contract under this condition 10, it shall immediately notify the other party in writing.
- 10.5** Upon giving written notice of such termination or suspension, the Contract shall be deemed to have been terminated or suspended (as the case may be) from the date specified by the Supplier in such notice.
- 10.6** On termination or expiry of the Contract, the Customer shall immediately pay to the Supplier all outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.



10.7 Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

10.8 Conditions which expressly or by implication survive termination or expiry of the Contract shall continue in full force and effect.

11. Intellectual property rights

11.1 All Supplier IPR and all Intellectual Property Rights in or arising out of or in connection with the performance of the Contract (other than Intellectual Property Rights in any Customer Materials provided by the Customer) shall be owned by the Supplier.

11.2 The Customer shall not under any circumstances or at any time:

11.2.1.1 modify, alter, remove, deface or obscure any branding, identifying mark or packaging on or relating to the Goods displaying Supplier IPR;

11.2.1.2 modify, alter, remove or tamper with Supplier IPR used on or in relation to the Goods;

11.2.1.3 do or permit to be done or omit to do any act which would or might jeopardise or invalidate any registration of any Supplier IPR (or any application for registration of any Supplier IPR) or be inconsistent with Supplier IPR;

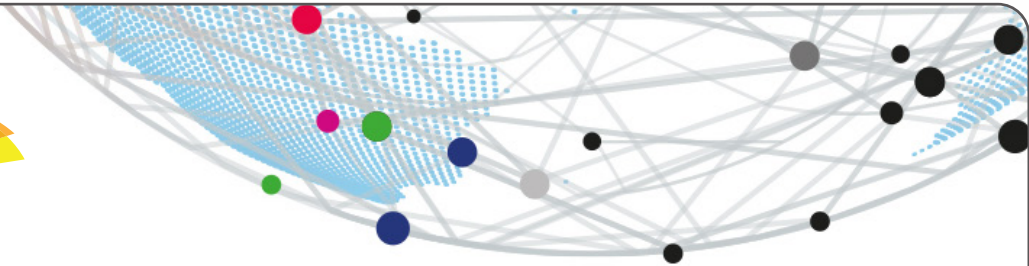
11.2.1.4 do or permit to be done or omit to do any act which might assist or give rise to an application to remove any Supplier IPR from the register or which might prejudice the right or title of the Supplier to any Supplier IPR; or

11.2.1.5 use Supplier IPR in any way which might prejudice its distinctiveness, validity or the Supplier's goodwill in that Supplier IPR.

11.3 The Customer shall immediately notify the Supplier of any infringement or possible infringement or misuse of Supplier IPR of which it becomes aware and of any allegation that the registration of any Supplier IPR is invalid or that use of any Supplier IPR and/or the marketing, advertising, promotion and/or sale of the Goods infringes any rights of any third party (**Infringements**).

11.4 The Supplier shall have conduct of all negotiations and proceedings relating to Infringements and shall in its sole discretion decide what action, if any, to take in respect thereof. The Customer shall not be entitled to bring any action in its own name and shall make no comment or admissions in respect thereto. The Customer shall, at the request of the Supplier, provide such assistance as the Supplier shall reasonably require in respect of any action taken by the Supplier.

11.5 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferrable licence to copy and modify any Customer Materials for the purpose of performing the Contract.



12. Confidentiality

12.1 Subject to condition **12.2**, each party agrees that it shall not during or after the term of the Contract disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party.

12.2 The Customer shall, in particular, keep confidential all technical or commercial know-how, confidential information (whether oral or written), drawing, artwork, specifications, samples and technical documentation furnished by or on behalf of the Supplier in respect of the Accepted Order or which became known to the Customer as a result of it entering into the Contract.

12.3 Each party may disclose the other party's confidential information:

12.3.1.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information to carry out the party's obligations under the Contract. Each party shall ensure that such employees, officers, representatives, subcontractors or advisers comply with this condition **12**; and

12.3.1.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.4 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

13. Force Majeure

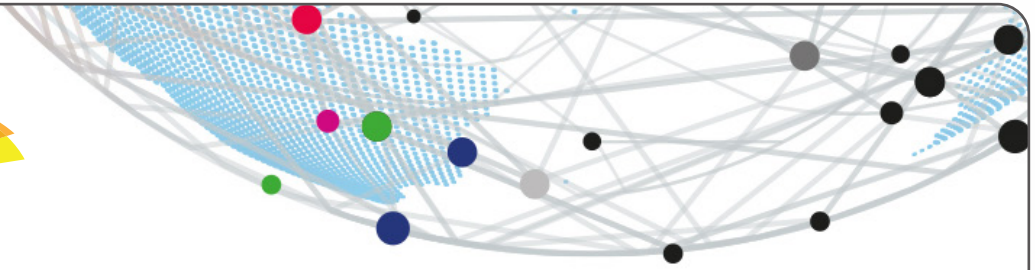
The Supplier shall not be in breach of the Contract nor liable for any failure to perform or delay in performing any of its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event, circumstances or causes beyond the Supplier's reasonable control, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, failure and/or shortage in the supply of raw materials used in the production of the Goods, currency fluctuations, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, pandemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

14. Dispute resolution

14.1 If a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (**Dispute**), then, except as expressly provided in the Contract, the parties shall follow the following procedure:

14.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, a senior representative of the Supplier and a senior representative of the Customer shall attempt in good faith to resolve the Dispute;

14.1.2 if the senior representatives of both parties are, for any reason, unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to the Director of the Supplier and the Director of the Customer who shall attempt in good faith to resolve it; and



14.1.3 if the Directors of both parties are, for any reason, unable to resolve the Dispute within thirty (30) days of it being referred to them, the Supplier may give notice to the Customer that it requires a mediation of the Dispute to take place within thirty (30) days (**Mediation Notice**). Upon the Supplier serving on the Customer a Mediation Notice, the parties shall be obliged to participate in mediation within thirty (30) days and in good faith.

14.2 A mediation, unless otherwise agreed in writing by the parties, shall be subject to the CEDR Model Mediation Procedure and if the parties are unable to agree on the appointment of a mediator within fourteen (14) days of service of a Mediation Notice, the mediator shall be nominated by the CEDR and a copy of the Mediation Notice shall be sent to the CEDR.

14.3 The commencement of the dispute resolution procedures detailed in this condition 14 up to and including mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under condition **15.9**, which condition shall apply at all times.

14.4 If the Dispute is not resolved within thirty (30) days after service of a Mediation Notice, or either party fails to participate or ceases to participate in the mediation process before the expiry of that thirty (30) day period, or the mediation terminates before the expiry of that thirty (30) day period without the Dispute being resolved, either party may refer the Dispute to be finally resolved by the courts of England and Wales in accordance with condition **15.9**

14.5 Nothing in this condition 14 shall prevent or delay either party from seeking any interim injunctions, interdicts or orders in connection with any matter under the Contract, including the issue of proceedings at any time.

15. General

15.1 Assignment and subcontracting

15.1.1 The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.1.2 The Customer shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

15.2 Notices

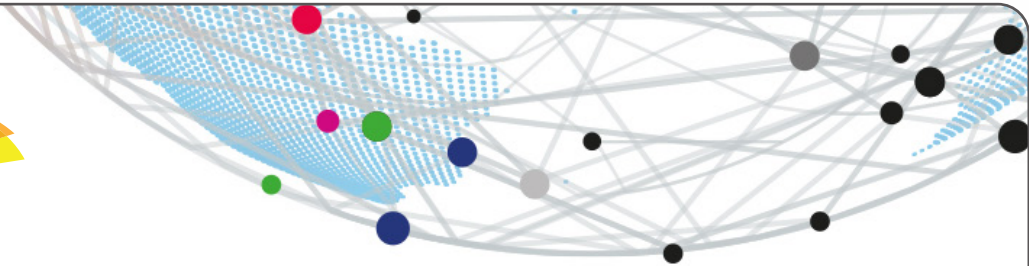
15.2.1 Any notice given to a party under or in connection with the Contract shall be in writing in the English language, addressed to the relevant party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this condition, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier or e-mail.

15.2.2 Any notice shall be deemed to have been received:

15.2.2.1 if delivered by hand, on signature of a delivery receipt or at the time of delivery;

15.2.2.2 if sent by pre-paid first class post or other next day recorded delivery or commercial courier, at 09:00am on the second Business Day after the date of posting; and

15.2.2.3 if served by e-mail, on the day of sending if served on a Business Day between 09:00 and 17:00 or shall be deemed to have been received on the next following Business Day should the notice have been served on a day other than a Business Day or have been served after 17:00 on a Business Day.



15.2.3 Notices served by e-mail pursuant to condition **15.2.2.3** shall be sent to the addresses set out below for the relevant party:

15.2.3.1 to the Supplier at: customer.service@pmb.co.uk; and

15.2.3.2 to the Customer at: the email address set out or referred to in the Customer's Order or such other email provided by the Customer to the Supplier for the purpose of communications under the Contract.

15.2.4 This condition **15.2** does not apply to the service of any proceedings or other documents in any legal action.

15.3 Severance

If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall not affect the validity and enforceability of the other provisions of the Contract and, to the extent required, the parties shall negotiate in good faith to amend such provision (or part provision) such that as amended it is legal, valid and enforceable and to the greatest extent possible achieves the intended original commercial intention of the original provision.

15.4 Waiver

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

15.5 Third party rights

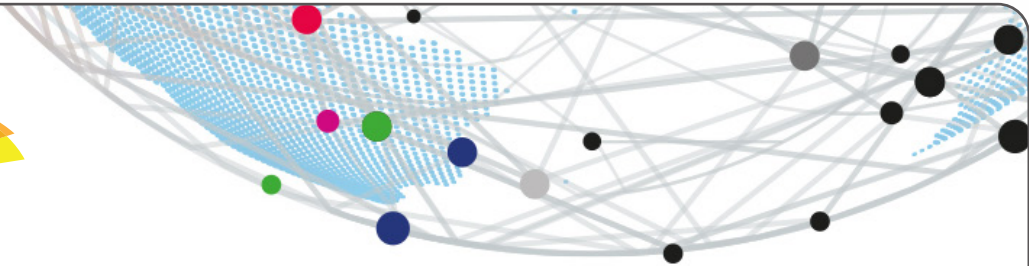
Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 for any third party or person not a party to the Contract to enforce any term of the Contract.

15.6 Rights and Remedies

The rights and remedies under the Contract are cumulative and in addition to and, except where otherwise expressly provided in the Contract, do not exclude, any rights and remedies provided by law (including equitable remedies) or otherwise.

15.7 Entire Agreement

15.7.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Accordingly, these Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.



15.7.2 The Customer acknowledges that it has not relied on (and shall have no remedies in respect of) any statement, promise, warranty or representation or given by or on behalf of the Supplier which is not set out in the Contract. Accordingly, any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them and that they shall not form part of the Contract or have any contractual force.

15.8 Variation

Except as expressly set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by an authorised representative of the Supplier and the Customer.

15.9 Governing law and Jurisdiction

15.9.1 The Contract and any Dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes, mediation or claims), shall be governed by, and construed, in accordance with English law.

15.9.2 The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales to settle any Dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation. All proceedings are to be conducted in the English language.

15.10 Governing Language

15.10.1 The Contract is drafted in the English language and all business arising out of or in connection with the Contract or its subject matter or formation (including contractual and non-contractual disputes, mediation and claims) and notices given under the Contract shall be exclusively in the English language unless expressly prohibited by law.

15.10.2 Where exclusive use of the English language is expressly prohibited by law, the parties agree that any document in a language other than English shall be accompanied by a certified English translation. In the event of a conflict, the English language version of these Conditions and any other document or notice shall prevail.