

# Standard Terms and Conditions for the Sale of Goods

October 2024

**Private and Confidential**

**Subject to Legal Professional Privilege**



**1. Interpretation**

1.1. The following definitions apply in these Terms and Conditions unless the context otherwise requires:

<p>Building Safety Laws</p>	<p>means:</p> <ul style="list-style-type: none"> <li>.1 the Building Safety Act 2022.</li> <li>.2 the Defective Premises Act 1972.</li> <li>.3 the Building Act 1984.</li> <li>.4 the Building Regulations 2010 (SI 2010/2214).</li> <li>.5 the UK version of Regulation (EU) No. 305/2011, as it forms part of English law under the European Union (Withdrawal) Act 2018 and the Construction Products Regulations 2013 (SI 2013/1387).</li> <li>.6 any statutory instrument, regulation, rule, order, code of practice or guideline made under the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984 and the Building Regulations having the force of law that affects any Goods.</li> <li>.7 any guidance issued by a government department, the Building Safety Regulator and/or the Health and Safety Executive in connection with the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984, the Building Regulations and/or any statutory instrument, regulation, rule, order, code of practice or guideline relating to the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984 and/or the Building Regulations; and</li> <li>.8 any building safety laws and regulations now or from time to time in force that affect any Goods.</li> </ul>
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Business Day	means a day other than a Saturday, Sunday, or public holiday in England or Wales.
Buyer	means the person who directly purchases the Goods from the Seller.
Contract	means the contract between the Buyer and the Seller for the purchase and sale of the Goods in accordance with these Terms and Conditions.
Contract Price	means the price payable for the Goods in accordance with Clause 4 of these Terms and Conditions.
Delivery Date	means the date on which the Goods are to be delivered as notified to the Buyer by the Seller.
Force Majeure	an event, circumstance or cause beyond a Party's reasonable control.
Goods	means the goods (including any instalment of the goods or any part of them) of the description and quantity set out in the Order.
Guidance	means any electronic, hardcopy or verbal guidance, instructions or recommendations given by Siderise to the Buyer in relation to the installation of the Product.



Order	the Buyer's order for the Goods as set out in the Buyer's purchase order or the Seller's quotation which has been accepted by the Buyer in writing (as the case may be).
Seller	means Siderise Insulation Limited (a company registered in England and Wales with company number 2370350) or Siderise (Special Products) Limited (a company registered in England and Wales with company number 01681439), depending on which company is specified on any Order.
Specification	any specification for the Goods provided by the Seller in writing.

- 1.2. Unless the context otherwise requires, each reference in these Terms and Conditions to:
- a) "writing", and any cognate expression, includes a reference to any communication effected by electronic or similar means.
  - b) a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time.
  - c) a "Clause" is a reference to a Clause of these Terms and Conditions.
  - d) a "Party" or the "Parties" refer to the parties to these Terms and Conditions and each party's assigns (as permitted in accordance with these Terms and Conditions) and successors.
  - e) words imparting the singular number shall include the plural and vice versa; and



- f) any words following the terms including, include for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

- 1.3. The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions

## **2. Basis of Contract**

- 2.1. These Terms and Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2. The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Terms and Conditions. The Buyer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.3. The Order shall only be deemed to be accepted by the Seller on, and the Contract shall come into existence on, the Seller's acceptance of the Order by issuing an acceptance of the Order to the Buyer in writing by e-mail or .pdf (or electronic equivalent), or by issuing an invoice for Order to the Buyer, or by delivering the Goods which are the subject of the Order to the Buyer (whichever is the earlier).
- 2.4. The Seller is not obliged to accept an Order from any buyer who has not supplied the Seller with references satisfactory to the Seller. If at any time the Seller is not satisfied as to the creditworthiness of the Buyer it may give notice in writing to the Buyer that no further credit will be allowed to the Buyer in which event no further Goods will be delivered to the Buyer other than against cash payment and, notwithstanding Clause 5.2, all amounts owing by the Buyer to the Seller shall be immediately payable in cash.
- 2.5. No Order which has been accepted by the Seller may be cancelled by the Buyer unless agreed by the Seller in writing, and in which case the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller because of such cancellation.



- 2.6. The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer (including, but not limited to, the Order) that is inconsistent with these Conditions.
- 2.7. Any advertising or descriptive matter produced by the Seller (to include but not to be limited to any data, descriptions, drawings and/or price lists contained in the Seller's electronic and hardcopy literature) are produced for the sole purpose of giving an approximate idea of the corresponding Goods and:
- a) are subject to alteration without notice.
  - b) do not constitute offers (whether to sell the Goods or otherwise) which are capable of acceptance; and
  - c) do not form part of the Contract nor have any contractual force.
- 2.8. The Seller's employees or agents are not authorised to give any advice or make any representation in connection with or in relation to the Goods unless any such advice or representation is confirmed by the Seller in writing. In entering the Contract, the Buyer acknowledges that it has not and does not rely on, and that the Seller has no liability in connection with or in relation to, any advice or representation which is not so confirmed.
- 2.9. Any errors or omissions in any advertising, data, descriptive matter or other document produced by the Seller (to include but not to be limited to any descriptions, drawings, invoices, price lists, and / or technical data sheets, information or responses which may be contained in the Seller's electronic or hardcopy literature) shall be subject to correction without any liability on the part of the Seller.

### **3. Specification**

- 3.1. The Goods are described in the Specification, which may only be varied in writing by the Seller.
- 3.2. The Goods will only be supplied in the minimum units thereof stated in the Seller's price list or in multiples of those units. Orders received for quantities other than these will be adjusted accordingly.



- 3.3. The Seller reserves the right to amend the Specification if required to conform with any applicable safety or other statutory or regulatory requirement, and the Seller shall notify the Buyer in such event.

#### 4. Price

- 4.1. The price of the Goods shall be the price listed in the Order or, if no price is quoted, the price set out in the Seller's price list in force at the date of acceptance of the Order or such other price as may be agreed in writing by the Seller and the Buyer.
- 4.2. Where the Seller has quoted a price for the Goods other than in accordance with the Seller's published price list the price quoted shall be valid for 30 days only or such lesser time as the Seller may specify.
- 4.3. The Seller operates a minimum order charge, the value of which will be stated on the official quotation or offer letter and may only be waived if agreed in writing by the Seller.
- 4.4. The Seller may, by giving written notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the cost to the Seller which is due to:
- a) any factor beyond the control of the Seller (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture).
  - b) any change in delivery dates, quantities or specifications for the Goods which are requested by the Buyer and agreed by the Seller in writing; or
  - c) any delay in delivery, manufacturer or otherwise caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.5. Any discount specified by the Seller in the Contract will be allowed by the Seller to the Buyer in respect of Goods for which payment is received by the Seller on or before the due date and otherwise in accordance with the payment terms set out in these Terms and Conditions and provided that no other amounts owing by the Buyer to the Seller are overdue and unpaid.
- 4.6. Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Parties, all prices are



exclusive of delivery which will be invoiced to, and payable by, the Buyer in addition to the price of the Goods.

- 4.7. All prices are quoted as being exclusive of any applicable value added tax (VAT), excise, sales taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods, and which shall be invoiced to, and payable by, the Buyer in addition to the price of the Goods.

## 5. Payment

- 5.1. The Seller shall invoice the Buyer for the price of the Goods.
- a) on or at any time after despatch of the Goods to the Delivery Location.
  - b) upon or at any time after the Seller notifying the Buyer that the Goods are ready for collection in accordance with Clause 6.2; or
  - c) in accordance with any additional and/or alternative terms agreed in writing between the Parties.
- 5.2. The Buyer shall pay each invoice submitted by the Seller:
- a) within 30 days of the date of the Seller's invoice or otherwise in such period and / or in accordance with such credit terms as may have been agreed in writing between the Parties.
  - b) in full and in cleared funds to the bank account stated on the Seller's invoice or otherwise in such manner as may be stated on the Seller's invoice or notified by the Seller in writing; and
  - c) time for the payment shall be of the essence of the Contract.
- 5.3. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law), unless otherwise agreed in writing between the Parties.
- 5.4. Receipts for payment will be issued only upon request.





## 6. Delivery

- 6.1. The Seller shall deliver the Goods to the location set out in the Buyer's order or such other location as the Parties may agree (**Delivery Location**).
- 6.2. If no place of delivery is so specified or agreed, the Buyer shall collect the Goods from the Seller's premises at any time after the Seller notifies the Buyer that the Goods are ready for collection.
- 6.3. Delivery is completed on the completion of unloading of the Goods at the Delivery Location, or the collection of the Goods by the Buyer.
- 6.4. The Delivery Date is approximate only and time for delivery is not of the essence unless expressly agreed by the Seller in writing.
- 6.5. The Goods may be delivered by the Seller in advance of the Delivery Date.
- 6.6. All lead times stated on a quotation are only correct at the date of issue and are to be confirmed at the time of placing the Order.
- 6.7. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and any delay in delivery or defect in an instalment or any failure by the Seller to deliver any one or more of the instalments shall not entitle the Buyer to cancel any other instalment or treat the Contract as repudiated.
- 6.8. Where prices are quoted as inclusive of delivery, this allows for a single delivery to the Delivery Location unless otherwise agreed by the Seller in writing and does not include delivery to locations with restricted access, for timed or weekend delivery or delivery on special vehicles (such as rigid, flat bed or Moffat). Any conditions or requirements in relation to delivery which have not been allowed for will incur an additional charge.
- 6.9. The Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.



## 7. Non-delivery

- 7.1. If the Buyer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on the Delivery Date, then:
- a) the Seller shall be entitled to store or arrange for the storage of the Goods.
  - b) notwithstanding the provisions of Clause 9.1, risk in the Goods shall pass to the Buyer with effect from the Delivery Date.
  - c) the Goods will be deemed to have delivered on the Delivery Date.
  - d) the Buyer shall pay to the Seller all costs and expenses (including but not limited to an abortive fee, and the cost of insurance, storage and re-delivery) arising from such failure; and
  - e) if 10 Business Days after the Delivery Date or the date on which the Seller notified the Buyer that the Goods were ready for collection (as the case may be) the Buyer has not taken delivery of, and/or has not collected, the Goods, the Seller may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Buyer for any shortfall below the price of the Goods (as the case may be).
- 7.2. If the Seller fails to deliver the Goods or any part thereof on the Delivery Date other than for reasons outside the Seller's reasonable control or the Buyer's or its carrier's fault:
- a) if the Seller delivers the Goods within 3 Business Days thereafter the Seller shall have no liability in respect of such late delivery: or
  - b) if the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.



- 7.3. The Seller shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

## 8. Inspection / Shortage

- 8.1. The Buyer shall inspect the Goods on delivery or on collection (as the case may be).
- 8.2. If the Goods cannot be examined, the Buyer shall mark the carrier's note (or equivalent) as "not examined".
- 8.3. The Seller shall be under no liability for any damage or shortages that would be apparent on reasonable careful inspection if the provisions of this Clause 8 are not complied with and, in any event, will be under no liability if a written complaint is not delivered to the Seller within 3 Business Days of delivery detailing the alleged damage or shortage. Failure to give notice of any claim within this time shall constitute an unqualified acceptance of the Goods.
- 8.4. In all cases where defects or shortages have complained of the Seller shall be under no liability in respect thereof unless an opportunity to inspect the Goods is supplied to the Seller before any use is made thereof or any alteration or modification is made thereto by the Buyer.
- 8.5. Subject to Clauses 9.3 and 9.4, the Seller shall make good any shortage in the quantity of Goods as soon as it is reasonable to do so, but otherwise shall be under no liability whatsoever arising from such shortage.

## 9. Risk and Retention of Title

- 9.1. The risk in of the Goods (to include but not be limited to in relation to damage to and/or loss of the Goods) shall pass to the Buyer:
- a) upon delivery by the Seller of the Goods to the Delivery Location; or
  - b) upon the Seller notifying the Buyer that the Goods are ready for collection in accordance with Clause 6.2.



- 9.2. Notwithstanding delivery and/or the passing of risk in the Goods and notwithstanding any other provision of these Terms and Conditions, legal and beneficial title to the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full for the invoiced value of the Goods including VAT.
- 9.3. Until payment has been made to the Seller in accordance with these Terms and Conditions and title in the Goods has passed to the Buyer, the Buyer shall be in possession of the Goods as bailee for the Seller and the Buyer shall:
- a) store the Goods in an appropriate environment and separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property.
  - b) ensure the Goods are identifiable as being supplied by the Seller and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods.
  - c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.
  - d) insure the Goods against all reasonable risks; and
  - e) give the Seller such information as the Seller may reasonably require from time to time relating to the Goods and the ongoing financial position of the Buyer.
- 9.4. If the Buyer sells or transfers the Goods to a third party before legal and beneficial title has passed to the Buyer in accordance with these Terms and Conditions, the proceeds of the sub sale or transfer (or such proportion as is due to the Seller) shall be held by the Buyer on behalf of the Seller. The Buyer shall ensure that such moneys are held separately from, and are in no way mixed with, any other moneys or funds, and that all moneys held on the Seller's behalf are identified as such.
- 9.5. The Seller may, in accordance with the provisions of the Companies Act 2006, register any charge created by these Terms and Conditions.



- 9.6. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so, all money owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.
- 9.7. At any time before title to the Goods passes to the Buyer, the Seller may require the Buyer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Buyer fails to do so promptly, the Seller may enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.
- 9.8. The Buyer's right to possession of the Goods in which the Seller maintains legal and beneficial title shall terminate if:
- a) the Buyer commits or permits any material breach of the Buyer's obligations under these Terms and Conditions.
  - b) the Buyer enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986, the Insolvent Partnerships Order 1994 (as amended), or any other scheme or arrangement is made with the Buyer's creditors.
  - c) the Buyer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors; or
  - d) the Buyer convenes any meeting of its creditors, enters voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed. in respect of its assets or undertaking or any part thereof, any documents are filed with. the court for the appointment of an administrator in respect of the Buyer, notice of intention to appoint an administrator is given by the Buyer or any of its directors or by a qualifying floating charge-holder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible. insolvency of the Buyer.



## 10. Quality

10.1. The Seller warrants that on delivery, and for a period of 12 months from the date of delivery (unless an alternative period is agreed otherwise in writing by the Seller), the Goods shall:

- a) conform in all material respects with the Specification.
- b) be free from material defects in design, material and workmanship; and
- c) be of satisfactory quality.

10.2. Subject to Clause 11.3, if on delivery or collection of the Goods it is discovered that some or all of the Goods do not comply with the warranty set out in Clause 10.1 and:

- a) the Buyer gives notice in writing to the Seller within 3 Business Days of delivery or collection of the Goods particularising the reasons why and evidencing the alleged non-compliance.
- b) the Seller is given a reasonable opportunity of examining the Goods; and
- c) the Buyer (if asked to do so by the Seller) returns the Goods to the Seller's place of business at the Buyer's cost,

the Seller shall, at its option, repair or replace the non-compliant Goods, or refund the price of the non-compliant Goods in full.

10.3. The Seller shall not be liable for the Goods' failure to comply with the warranty set out in Clause 10.1 if:

- a) the non-compliance could reasonably have been discovered on inspection upon delivery or collection of the Goods.
- b) the non-compliance is caused by accident, abuse, design, exposure to corrosive materials, faulty installation, handling, lack of maintenance, misuse, non-compliance with manufacturer's instructions or recommendations, non-standard application, storage, tampering, theft or vibration.



- c) the non-compliance is caused by accident, electrical or other fault, explosion, fire, flood, freezing, humidity, lightning, storms, temperature, water or other conditions extraneous to the manufacture of the Goods.
  - d) the non-compliance is caused, or contributed to, by the installation and/or maintenance of the Goods carried out by the Buyer or a third party acting on behalf of the Buyer.
  - e) the non-compliance is caused, or contributed to, by the design of the building and / or system in which the Goods are installed.
  - f) the non-compliance is caused, or contributed to, by the building environment in which the Goods are installed (to include but not be limited to building movement or the failure of third-party components or materials).
  - g) the Buyer alters, improves, repairs, or replaces the Goods or any part of the Goods without the written consent of the Seller; or
  - h) the defect arises because of fair wear and tear, wilful damage, negligence and/or abnormal storage or working conditions.
- 10.4. The Seller does not warrant the fitness for purpose, performance, and/or suitability of the Goods or that the installation of the Goods will be in accordance with and/or comply with the Guidance, any contract between the Buyer and any third party and/or the Building Safety Laws.
- 10.5. Except as provided in this Clause 10, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in Clause 10.1 unless the Goods are subject to a product warranty set out in a separate document provided to the Buyer by the Seller ("**Product Warranty**") in which case the Seller may be obliged to repair or replace the Goods in accordance with the terms of that Product Warranty.
- 10.6. Subject as expressly provided in these Terms and Conditions or any Product Warranty, all warranties, conditions or other terms implied by statute (to include but not be limited to sections 13 to 15 of the Sale of Goods Act 1979) or common law are excluded to the fullest extent permitted by law.



- 10.7. No Goods may be returned to the Seller without the prior agreement in writing of the Seller.
- 10.8. These Terms and Conditions shall apply to any repaired or replacement Goods supplied by the Seller.
- 10.9. The Buyer shall be responsible for ensuring that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labelling of the Goods, any use or sale of the Goods by the Buyer is in compliance with all applicable statutory requirements and that handling, and sale of the Goods by the Buyer is carried out in accordance with directions given by the Seller or any competent governmental or regulatory authority and the Buyer will indemnify the Seller against any liability loss or damage which the Seller might suffer because of the Buyer's failure to comply with this condition.

## **11. Buyer's Default**

- 11.1. If the Buyer fails to make any payment to the Seller in accordance with Clauses 5.2 and 5.3, then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- a) cancel the Order or suspend any further deliveries to the Buyer.
  - b) appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Parties) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
  - c) charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 2% per annum above National Westminster Bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).





- 11.2. Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if:
- a) the Buyer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract.
  - b) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, 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 its assets or ceasing to carry on business.
  - c) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
  - d) the Buyer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 11.3. Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in Clause **Error! Reference source not found.**, or the Seller reasonably believes that the Buyer is about to become subject to any of them.
- 11.4. On suspension of termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately on receipt.
- 11.5. Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.



## 12. Design Responsibility or Duty holder Role.

12.1. Subject to Clause 12.2, the Buyer acknowledges and agrees that:

- a) the Goods are sold and supplied by the Seller without any acceptance by the Seller of design responsibility relevant to the application, installation, specification and/or use of the Goods.
- b) the Goods are sold and supplied by the Seller without any acceptance by the Seller of any duty holder role in relation to the Goods and/or the installation of the Goods (whether in accordance with the Building Safety Laws or otherwise).
- c) the Seller is not acting as an adviser, consultant, designer or duty holder in relation to the application, installation, specification and/or use of the Goods.
- d) the Buyer has not and does not rely on, and the Seller has no liability in connection with or in relation to, any advice, data and/or information which may be provided by the Seller; and
- e) the Buyer accepts sole responsibility for:
  - i. the fitness for purpose and/or suitability of the Goods in the application for which the Goods are purchased.
  - ii. the interface between the Goods and the workface to which the Goods are affixed or installed; and
  - iii. any corresponding duty holder role (whether in accordance with the Building Safety Laws or otherwise).

12.2. The Seller may from time to time and at the Seller's discretion provide design input to the Buyer in relation to the Goods and/or the installation of the Goods. In doing so, the Seller warrants that:

- a) the Seller will provide the design input with reasonable care and skill.



- b) the Seller shall comply and shall procure compliance by each of its officers, employees, agents and sub-consultants with the Building Safety Laws.
- c) the Seller shall comply with all of the obligations imposed on the Seller as a designer for the purposes of Part 2A of the Building Regulations 2010 insofar as the Building Regulations 2010 are applicable to the Goods and/or the installation of the Goods.
- d) the Seller is competent to fulfil the duties of a designer for the purposes of Part 2A of the Building Regulations 2010 insofar as the Building Regulations 2010 are applicable to the Goods and/or the installation of the Goods; and
- e) the Seller will promptly and without charge provide to the Buyer on request copies of any information that the Seller is required to provide in accordance with the Building Safety Laws.

### **13. Installation of the Goods**

- 13.1. The Buyer acknowledges and agrees that the Buyer accepts sole responsibility to ensure that the Goods are installed in accordance and/or in compliance with the Guidance and/or the Building Safety Laws.
- 13.2. The Buyer acknowledges and agrees that the Buyer accepts sole responsibility for the installation of the Goods, which is entirely at the Buyer's own risk.

### **14. Limitation of Liability**

- 14.1. References to liability in this Clause 13 include every kind of liability arising under or in connection with the Contract and/or the Goods to include but not be limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.



- 14.2. Nothing in these Terms and Conditions limits any liability of the Seller for:
- a) death or personal injury caused by the Seller's negligence.
  - b) fraud or fraudulent misrepresentation; or
  - c) any liability which cannot be legally limited.
- 14.3. Subject to Clause 15.2, the Seller's total liability to the Buyer shall not exceed the price for the Goods.
- 14.4. Subject to Clauses 15.2 and 15.3, the Seller's liability for the following types of damage and / or loss is wholly excluded:
- a) damage or loss arising from, or in connection with, delay to the carrying out and/r completion of works.
  - b) damage or loss arising from, or in connection with, a failure by the Buyer or any third party to install the Goods in accordance and/or in compliance with the Guidance and/or the Building Safety Laws.
  - c) damage to or loss of goodwill.
  - d) loss of agreements and / or contracts.
  - e) loss of anticipated savings.
  - f) loss of use or corruption of data, information and / or software; and / or
  - g) consequential and / or indirect loss.
- 14.5. This Clause 13 shall survive termination of the Contract.



## 15. Confidentiality, Publications and Endorsements

- 15.1. The Buyer will regard as confidential the Contract and all information obtained by the Buyer relating to the business and/or products of the Seller and will not use or disclose to any third party such information without the Seller's prior written consent provided that this undertaking shall not apply to information which is in the public domain other than by reason of the Buyer's default.
- 15.2. The Buyer will not use, authorise, or permit any other person to use any name, trademark, house mark, emblem or symbol which the Seller is licensed to use, or which is owned by the Seller upon any premises, note paper, visiting cards, advertisement, or other printed matter or in any other manner whatsoever unless such use shall have been previously authorised in writing by the Seller and (where appropriate) its licensor.
- 15.3. The Buyer will use all reasonable endeavours to ensure compliance with this Clause 155 by its employees, servants and agents.
- 15.4. The provisions of this Clause 155 shall survive the termination of the Contract.

## 16. Notices

- 16.1. Any notice given to a Party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case), unless otherwise agreed in writing between the Parties.



16.2. Any notice shall be deemed to have been received:

- a) if delivered by hand, at the time the notice is left at the proper address; or
- b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

### **17. Force Majeure**

Neither Party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such failure or delay results from a Force Majeure Event. If the period of delay or non-performance continues for 4 weeks, the Party not affected may terminate the Contract by giving 5 Business Days' notice in writing to the affected Party.

### **18. Assignment**

- 18.1. The Seller may assign the Contract or any part of it to any person, firm or company without the prior written consent of the Buyer.
- 18.2. The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

### **19. Variation**

No variation of this Contract shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

### **20. Waiver**

A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.



## 21. Severance

- 21.1. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.
- 21.2. If any provision or part-provision of the Contract is deemed deleted under Clause 21.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## 22. Third Party Rights

A person who is not a Party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

## 23. Entire Agreement

The Contract constitutes the entire agreement between the Parties. Each Party acknowledges that in entering the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.



## 24. Law and Jurisdiction

- 24.1. These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 24.2. Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms and Conditions or to the Contract or their subject matter or formation.

