

STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS

1. DEFINITIONS AND INTERPRETATION

1.1 In these Terms and Conditions the following expressions will have the following meanings unless inconsistent with the context:

“Buyer”	the person(s), firm or company whose order for Goods is accepted by the Company;
“Business Day”	any day other than a Saturday or Sunday or a public or bank holiday in Great Britain;
“Certificate of Analysis”	the Certificate of analysis issued by the Company in respect of each batch of Goods dispatched to the Buyer;
“Company”	Biocatalysts Ltd (registered in England and Wales with Company number 2570883);
“Confidential Information”	all information in respect of the business of the Company including, but not limited to, know-how or other matters connected with the Goods, and information concerning the Company’s relationships with actual or potential clients, customers or suppliers and the needs and requirements of the Company and of such persons and any other information which, if disclosed, will be liable to cause harm to the Company;
“Contract”	the contract between the Company and the Buyer for the sale and purchase of Goods formed in accordance with Condition 2 and comprising these Terms and Conditions and the acknowledgement of order and the Quotation;
“Delivery Point”	the place where delivery of the Goods is to take place under Condition 7.1 ;
“Force Majeure”	any cause preventing the Company from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable contemplation and control of the Company including, without limitation, strikes, lockouts or other industrial disputes (whether involving the work

force of the Company or otherwise), protest, act of God, war, or national emergency, an act of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, explosion, flood, storm, epidemic or default of suppliers or subcontractors;

“Goods”

The goods which the Company sells to the Buyer (including any of them or any part of them) under a Contract including any replacement of those goods;

“Intellectual Property Rights”

all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;

“International Supply Contract”

such a contract as is described in section 26(3) of the Unfair Contract Terms Act 1977;

“Liabilities”

all costs, expenses, losses, damages, claims, proceedings, awards, fines, orders and other liabilities (including reasonable legal and other professional expenses) whenever arising or brought;

“Minimum Order Value”

the required minimum value of any order by the Buyer for Goods, as notified to the Buyer by the Company;

“Product Data Sheet”

means the relevant technical product data sheet for the Goods prepared by the Company as revised and published from time to time by the Company;

“Quotation”

any quotation issued by the Company from time to time in respect of the sale of Goods; and

“Terms and Conditions”

the standard terms and conditions of sale set out in this document together with any special terms agreed in writing between the Buyer and the Company as specified on the front of the acknowledgement of order.

1.2 The headings in these Terms and Conditions are for convenience only and will not affect their construction or interpretation.

1.3 Reference to a “**Condition**” is to a term of these Terms and Conditions.

2. **FORMATION**

2.1 Subject to any variation under **Condition 2.6**, the Contract incorporate these Terms and Conditions to the exclusion of all other terms and conditions and all previous oral or written representations, including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order or similar document, whether or not such document is referred to in the Contract.

2.2 Each order or acceptance of a Quotation will be deemed to be an offer by the Buyer to purchase Goods upon these Terms and Conditions. Subject to the terms of this Condition 2.2 the Contract is formed when the order is accepted by the Company, by way of a written acknowledgement of order. No contract will come into existence until a written acknowledgement of the order is issued by the Company. Any acceptance by the Company shall be confidential inter alia upon receipt of any official licence or permit which may be required to authorise the purchase, sale or export of the Goods or to obtain the supply of any materials.

2.3 Unless otherwise specified in writing by the Company a Quotation will be valid for 30 days from its date and it may be withdrawn at any time by the Company giving notice in writing. A Quotation does not constitute an offer.

2.4 The Buyer shall ensure that the terms of its order are correct.

2.5 Subject to **Conditions 7.7, 12 (Force Majeure)** and **13 (Termination)** cancellation of a Contract or part of a Contract by the Buyer will only be accepted at the discretion of the Company. The Company may cancel the Contract at any time prior to despatch of the Goods.

2.6 Save as set out in the Contract, these Terms and Conditions may only be varied or amended in writing and signed by a director of the Company.

3. **THE GOODS**

3.1 The quantity and description of the Goods will be as set out in the acknowledgement of order issued by the Company in accordance with **Condition 2.2**.

3.2 All samples, drawings, descriptive matter, Product Data Sheets and advertising that is published or issued by the Company and any descriptions or illustrations contained in the Company’s catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods represented by or described in them. They will not form part of the Contract.

3.3 The Buyer warrants (and the Company enters into the Contract relying on this) that it will provide to all third parties to whom it may supply the Goods, all information as to the use and safe handling of the Goods.

3.4 The Company may make any changes to any of the design, material or finishes of the Goods which:

3.4.1 are required to conform with any applicable safety or other statutory or regulatory requirements; or

3.4.2 do not materially affect their quality or performance.

3.5 The Company reserves the right to alter or exchange specified (whether in a Product Data Sheet or not) ingredients or components (or both) in the production of the Goods with others of equal or improved performance.

4. **PRICE**

4.1 The price for the Goods will be the price specified in the Quotation (or if the Quotation does not contain a price then as previously agreed in writing by the Company) and is exclusive of any Value Added Tax or other applicable sales tax or duty which will be added to that price.

4.2 Where a Contract is an International Supply Contract then unless otherwise specified, prices are also exclusive of freight insurance, port rates, taxes in the country of destination (including, without limitation, any sales, value added or similar tax) customs duties or other charges and the Buyer shall be responsible for payment of all such freight, insurance, taxes, duties and other charges or shall reimburse the Company therefore and indemnify the Company therefrom.

4.3 The Company may at any such time before delivery increase the price of the Goods by notice to the Buyer. In such an event the Buyer may on receipt of such notice cancel the order for the Goods, but if the delivery of the Goods is to be made by instalments the Buyer shall be entitled to cancel only the undelivered portion of the Contract. No other remedy shall be available to the Buyer in respect of such variation in price. If the Buyer does not make any such cancellation the increased price shall apply to the Contract as regards those Goods not already delivered when the increase is made.

4.4 The Company will be entitled to increase the price of the Goods following any changes in the specification of the Goods made either at the request of the Buyer and agreed by the Company or to cover any extra expense as a result of the Buyer's instructions or lack of instructions, or to comply with the requirements referred to in **Condition 3.4.1**.

5. **PAYMENT AND INVOICING**

5.1 The Company may invoice the Buyer for the price of the Goods on or at any time after despatch of the Goods.

- 5.2 Unless otherwise agreed in writing and subject to **Condition 5.3**, payment is due (in the currency specified on the Quotation) within 30 days of the date of the invoice in cleared funds. Deposits and stage payments are payable on demand or against any payment schedule agreed by the Company.
- 5.3 All sums payable to the Company under the Contract will become due immediately upon termination of the Contract.
- 5.4 All payments to be made by the Buyer under the Contract will be made in full without any set-off, restriction or condition and without any deduction or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges, fees, deductions or withholdings of any nature, unless the Buyer is required by law to make any such deduction or withholding.
- 5.5 The Company may appropriate any payment made by the Buyer to the Company to such of the invoices for the Goods as the Company thinks fit, despite any purported appropriation by the Buyer.
- 5.6 Without prejudice to any other rights the Company may have, the Company will have the right to suspend performance of its obligations under the Contract if the Buyer does not make any payment in accordance with this **Condition 5**.
- 5.7 If any sum payable under the Contract is not paid when due then, without prejudice to the Company's other rights under the Contract, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at 5% per annum over Barclays Bank plc base lending rate and the Company will be entitled to suspend deliveries of the Goods until the outstanding amount has been received by the Company from the Buyer.

6. **INSTALMENTS**

- 6.1 The Company may deliver the Goods by separate instalments. Each separate instalment will be invoiced and paid for in accordance with the provisions of the Contract.
- 6.2 Each instalment will be a separate contract and no cancellation or termination of any one such contract relating to an instalment will entitle the Buyer to repudiate or cancel any other such contract or the Contract.

7. **DELIVERY**

- 7.1 The Company shall make reasonable efforts to dispatch the Goods on the date agreed with the Buyer.
- 7.2 Compliance by the Company with any delivery dates for Goods (which shall be indicative only) is conditional upon timely receipt of necessary authorisations, documents to be supplied by the Buyers, release, declarations and payments due, as well as the timely fulfilment of the Buyer's other obligations. Otherwise, said delivery dates shall be reasonably extended. The Company may cancel or suspend the delivery of any Goods if any export or

import documents required for delivery of those Goods to the Buyer are not issued or if one of the Company's suppliers does not deliver materials for the Goods either as ordered or on time.

- 7.3 Delivery of the Goods will be made during the Buyer's usual business hours.
- 7.4 The Company shall deliver the Goods to the address of the Buyer's premises set out in the Quotation. If the Company agrees in writing to deliver the Goods other than at the Buyer's premises:
- 7.4.1 the Company will be entitled to add a reasonable charge for the delivery of the Goods to the price of the Goods; and
- 7.4.2 the Buyer will give the Company all necessary instructions and loading and unloading of the Goods will be at the Buyer's risk and expense.
- 7.5 If the Contract is an International Supply Contract, it will be deemed to incorporate the latest edition of Incoterms current at the date of the Contract. The relevant Incoterms will be specified in the written acknowledgement of order issued by the Company. If no such terms are specified the FCA Biocatalysts (CF15 7QQ UK) Incoterms shall apply. If there is any inconsistency between Incoterms and any express term of the Contract, the latter will prevail. The Company will be under no obligation to give the Buyer notice specified in section 32(3) of the Sale of Goods Act 1979.
- 7.6 If Goods are to be delivered in instalments the Company will use reasonable endeavours to deliver each instalment within the time agreed (and, if no time is agreed, then the Company shall deliver the Goods within a reasonable time). If, despite those endeavours, the Company is unable for any reason to fulfil any delivery or performance on the specified date, the Company will be deemed not to be in breach of the Contract, nor (for the avoidance of doubt) will the Company have any liability to the Buyer for direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused (including as a result of negligence) by any delay or failure in delivery except as set out in this Condition 7. Any delay in delivery will not entitle the Buyer to cancel the Contract. The Buyer may only cancel an instalment that is in delay on Condition that the Buyer has subsequently given 5 days' written notice to the Company requiring the delivery to be made and the Company has not fulfilled the delivery within that period. If the Buyer cancels the relevant instalment in accordance with this **Condition 7.6** then the Buyer shall not be charged for that instalment.
- 7.7 If the Buyer fails to take delivery of any of the Goods when they are ready for delivery or to provide any instructions, documents, licences or authorisations required to enable the Goods to be delivered on time (except solely on account of the Company's default), the Goods will be deemed to have been delivered on the due date and (without prejudice to its other rights) the Company may:

- 7.7.1 store or arrange for storage of the Goods until actual delivery or sale in accordance with **Condition 7.7.2** and charge the Buyer for all related costs and expenses (including, without limitation, storage and insurance); and/or
- 7.7.2 following written notice to the Buyer, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the price under the Contract or account to the Buyer for any excess achieved over the price under the Contract, in both cases having taken into account any charges related to the sale.
- 7.8 The Company will endeavour to comply with reasonable requests by the Buyer for postponement of delivery of the Goods, but shall not be under any obligation to do so. Where delivery of the Goods is postponed at the Buyer's request, the Buyer will pay all costs and expenses of the postponement including, without limitation, a reasonable charge for storage and transportation.
- 7.9 The Buyer shall inspect the Goods immediately upon delivery and shall within 2 Business Days of such delivery (time being of the essence in this context) give notice in writing to the Company of any matter or thing by reason whereof it alleges that the Goods are not in accordance with the Contract. Any delivery book or note marked "not examined" will not be accepted by the Company for the purposes of this Condition. If the Buyer fails to give such proper notice as is required hereunder then the Goods shall be deemed in all respects to be in accordance with the Contract and the Buyer shall be deemed to have accepted the Goods. The Buyer shall preserve any Goods (that it alleges are not in accordance with the terms of the Contract) as delivered for a period of 21 days from notification of the claim within which time the Company or its agents shall have the right to attend at the Buyer's premises to investigate the complaint. Any breach by the Buyer of this Condition 7.9 shall disentitle the Buyer from pursuing the claim and it shall not be entitled to any compensation in respect thereof.
- 7.10 The Company shall not be liable for any short delivery of the Goods or for any damage in transit unless both the Company and the carriers receive written notice of the same from the Buyer within three (3) Business Days of the delivery within the UK or within ten (10) Business Days of delivery to any other country.
- 7.11 The Buyer shall notify the Company of any non-delivery of Goods by the fourteenth (14) day after the date of the despatch in the case of a site in the UK or by the thirtieth (30) day after the date of dispatch in the case of a site in any other country where delivery is by air and the sixtieth (60) day after the date of dispatch in any country where delivery is by sea shipment. Where the Buyer does not receive notice of the dispatch within these times it must advise the Company of any non-delivery immediately on receipt of notice of dispatch.
- 7.12 The Goods will be dispatched with at least 50% of its shelf-life remaining. Details of shelf life for the Goods can be found on the product datasheet which, in addition to having been sent to the Buyer can (in respect of Standard Goods) be found on the Company's website www.biocatalysts.com.

8. **RISK/OWNERSHIP**

- 8.1 Risk in the Goods will pass to the Buyer as defined by incoterms (or deemed delivery in accordance with **Condition 7.7**).
- 8.2 Ownership of the Goods will not pass to the Buyer until the earlier of:
- 8.2.1 Company receiving in full (in cash or cleared funds) all sums due to it in respect of the Goods and all other sums which are or which become due to the Company from the Buyer on any account; and
- 8.2.2 The Buyer resells the Goods in accordance with **Condition 8.5**.
- 8.3 If a third party attempts to seize any Goods before title passes to the Buyer then the Buyer shall inform the third party that such Goods are the property of the Company and shall immediately notify the Company. If the Buyer fails to notify the Company, the Company shall be entitled to claim all amounts outstanding immediately and/or to withhold delivery of further Goods until payment is made.
- 8.4 The Buyer may resell the Goods before ownership has passed to it solely on the following terms:
- 8.4.1 any sale will be affected in the ordinary course of the Buyer's business at full market value and the Buyer will account to the Company accordingly; and
- 8.4.2 title to the Goods being sold shall pass from the Company to the Buyer immediately before the time at which the resale is to occur and the Buyer acts on its own behalf and not as the Company's agent.
- 8.5 The Buyer's right to possession of the Goods will terminate immediately if any of the circumstances set out in **Condition 15.1** occur.
- 8.6 The Company will be entitled to recover payment for the Goods notwithstanding that title in any of the Goods has not passed from the Company.
- 8.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
- 8.8 Where the Company is unable to determine whether any Goods are the Goods in respect of which the Buyer's right to possession has terminated, the Buyer will be deemed to have sold all Goods in the order in which they were invoiced to the Buyer.
- 8.9 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this **Condition 8** will remain in effect.

9. WARRANTY, EXCLUSION OF LIABILITY AND INDEMNITY

Warranty

- 9.1 The Company will, free of charge, within a period of 1 month from the date of delivery of Goods which are proved (to the reasonable satisfaction of the Company) to be damaged or defective due to defects in performance (an example of which will be the failure of the Goods to comply with the relevant Certificate of Analysis), replace, or refund the purchase price of such Goods. This obligation will not apply where:
- 9.1.1 the Goods have been improperly altered in any way whatsoever, or have been subject to misuse;
 - 9.1.2 the Goods have been improperly used;
 - 9.1.3 any instructions from the Company relating to usage of the Goods have not been complied with;
 - 9.1.4 any instructions from the Company as to storage of the Goods have not been complied with in all respects;
 - 9.1.5 the Buyer has failed to notify the Company of any defect or suspected defect within 7 days of the delivery where the defect would have been apparent on reasonable inspection, or within 7 days of the same coming to the knowledge of the Buyer; or
 - 9.1.6 the Goods are no-longer within their shelf life.
- 9.2 Any Goods which replace Goods under this Condition 9 will be subject to these Terms and Conditions. Any replacement Goods will be liable to replacement under the terms specified in **Condition 9.1** for the unexpired portion of the one month period from the original date of delivery of the replaced Goods.
- 9.3 Any warranty given by the Company is made expressly for the benefit of the Buyer. Under no circumstances can warranty be assigned to a third party without prior written consent from the Company.

Exclusion of Liability

- 9.4 In the event of any breach of the Company's express obligations under **Conditions 7.6 and 9.1** the remedies of the Buyer will subject to **Condition 9.5** be limited to payment of a sum equivalent to the purchase price of the Goods or the replacement of those Goods as appropriate.
- 9.5 The Company does not exclude its liability (if any) to the Buyer:

- 9.5.1 for breach of the Company's obligations arising under section 12 Sale of Goods Act 1979 or section 2 Sale and Supply of Goods and Services Act 1982;
 - 9.5.2 for personal injury or death resulting from the Company's negligence;
 - 9.5.3 for any matter for which it would be illegal for the Company to exclude or to attempt to exclude its liability;
 - 9.5.4 for fraud; or
 - 9.5.5 defective products under the Consumer Protection Act 1987.
- 9.6 Except as provided in **Condition 9.5** the Company will be under no liability to the Buyer whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill; loss of savings and similar loss) howsoever caused arising out of or in connection with:
- 9.6.1 any of the Goods or the manufacture or sale or supply, or failure or delay in supply, of the Goods by the Company or on the part of the Company's employees, agents or sub-contractors;
 - 9.6.2 any breach by the Company of any of the express or implied terms of the Contract;
 - 9.6.3 any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods;
 - 9.6.4 any statement made or not made, or advice given or not given, by or on behalf of the Company;
- or otherwise under the Contract.
- 9.7 Except as set out in **Condition 9.5** the Company hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Buyer.
- 9.8 Subject to **Condition 9.5** the Company's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed one hundred per cent of the price of the Goods supplied or to be supplied under the Contract (or such lesser sum as the parties have otherwise explicitly agreed in writing).
- 9.9 The Buyer agrees to indemnify, keep indemnified and hold harmless the Company from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include,

without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which the Company incurs or suffers as a consequence of a direct or indirect breach or negligent performance or failure in performance by the Buyer of the terms of the Contract or in respect of the Goods sold under the Contract in the event that the damage or injury shall have been occasioned otherwise than by the negligence of the Company.

10. **TESTING**

10.1 The Buyer shall undertake its own testing of all Goods before use to ensure that the Goods are fit for the Buyer's purpose.

10.2 The Company warrants that the Goods will be carefully inspected and submitted to its standard testing before dispatch. If a special test or tests (whether or not in the presence of the Buyer) are required by the Buyer these will be subject to an extra charge. In the event of any delay on the Buyer's part in attending such test or tests after seven days notice that the Company is ready, the test or tests will proceed in the Buyer's absence and shall be deemed to have been made in his presence. If the Buyer is not represented at the test, the test report shall be communicated by the Company to the Buyer and shall be deemed to be accepted as accurate by the Buyer.

11. **FREE TECHNICAL SUPPORT**

11.1 The Company, its employees and/or agents may at various times provide technical support and/or make suggestions or recommendations and /or give advice to the Buyer ("**Support**") in connection with the Goods. Such Support may be in writing or verbal and may be given in response to specific questions or requests for assistance or otherwise.

11.2 Subject to **Condition 9.5** the Company does not warrant or guarantee the correctness, adequacy or suitability of the Support, and it shall be the Buyer's sole responsibility to assess the Support and whether or not to accept, act on or implement the same. If the Buyer does elect to do so the Company shall have no liability to the Buyer for any loss or damage suffered as a result, whether in contract, tort (including negligence) or otherwise and the Buyer shall hold the Company harmless against third party claims in connection with the support, if any.

12. **FORCE MAJEURE**

12.1 The Company will be deemed not to be in breach of the Contract or otherwise liable to the Buyer in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to Force Majeure.

12.2 If the Company's performance of its obligations under the Contract is affected by Force Majeure:

- 12.2.1 it will give written notice to the Buyer, specifying the nature and extent of the Force Majeure, as soon as reasonably practicable after becoming aware of the Force Majeure and will at all times use all reasonable endeavours to bring the Force Majeure event to an end and, whilst the Force Majeure is continuing, mitigate its severity, without being obliged to incur any expenditure;
 - 12.2.2 subject to the provisions of **Condition 12.3**, the date for performance of such obligation will be deemed suspended only for a period equal to the delay caused by such event; and
 - 12.2.3 it will not be entitled to payment from the Buyer in respect of extra costs and expenses incurred by virtue of the Force Majeure.
- 12.3 If the Force Majeure in question continues for more than 3 months, either party in the Contract may give written notice to the other to terminate the Contract. The notice to terminate must specify the termination date, which must not be less than 30 days after the date on which the notice is given, and once such notice has been validly given, the Contract will terminate on that termination date.

13. **TERMINATION**

- 13.1 The Company may by notice in writing served on the Buyer terminate the Contract immediately if the Buyer:
- 13.1.1 is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the Buyer fails to remedy such breach within 30 days service of a written notice from the Company, specifying the breach and requiring it to be remedied. Failure to pay any sums due in accordance with **Condition 5.1 and 5.2** is a material breach of the terms of the Contract which is not capable of remedy;
 - 13.1.2 the Buyer 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 or limited liability partnership) 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;
 - 13.1.3 the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where the Buyer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer];

- 13.1.4 (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 Buyer, other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
 - 13.1.5 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer;
 - 13.1.6 (being a company) the holder of a qualifying floating charge over the Buyer's assets has become entitled to appoint or has appointed an administrative receiver;
 - 13.1.7 a person becomes entitled to appoint a receiver over the Buyer's assets or a receiver is appointed over the Buyer's assets;
 - 13.1.8 a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 13.1.9 (being an individual) becomes bankrupt, insolvent, makes any composition with his creditors, has a receiver appointed under the Mental Health Act 1983 or dies;
 - 13.1.10 has undergone a change in control (as defined by section 416 Income and Corporation Taxes Act 1988); or
 - 13.1.11 the equivalent of any of the above occurs to the Buyer under the jurisdiction to which the Buyer is subject.
- 13.2 Without limiting its other rights or remedies, the Company may suspend or cancel without liability the provision of any undelivered or incomplete portion of the Goods (and stop them in transit) under the Contract if the Buyer becomes subject to any of the events listed in **Conditions 13.1.2 to Conditions 13.1.11**.
- 13.3 The Company will be entitled to suspend any deliveries of Goods otherwise due to occur following service of a notice specifying a breach under **Condition 13.1.1**, until either the breach is remedied or the Contract terminates, whichever occurs first.
14. **LIEN**
- 14.1 Notwithstanding that credit may have been given to the Buyer under the Contract the Company shall be entitled to retain possession of the Goods or any part of them until payment been received from the Buyer in full.
- 14.2 Without prejudice to any other right which the Company may have, the Company shall be entitled to exercise a general lien or right of retention on all Goods in the Seller's possession,

which are, or are intended to become, the Buyer's property in regard to all debts, damages or other sums due to the Company under any Contract whatsoever between the Company and the Buyer, and pursuant to such lien or right the Company shall be entitled without prior notice to the Buyer to sell all or any portion of such Goods privately, by auction or otherwise and to keep the proceeds in diminution of such debts, damage or sums of all costs and expenses incurred in and about affecting such a sale.

15. **INTELLECTUAL PROPERTY**

- 15.1 The Company shall own all Intellectual Property Rights in the Goods.
- 15.2 No right or licence is granted to the Buyer in respect of the Intellectual Property Rights of the Company, except the right to use, or re-sell the Goods in the Buyer's ordinary course of business.
- 15.3 The Buyer will not without the Company's prior consent allow any trade marks of the Company or other words or marks applied to the Goods to be obliterated, obscured or omitted nor add any additional marks or words.
- 15.4 No representation or warranty is given by the Company that the Goods do not infringe any third party Intellectual Property Rights and in this respect the Buyer shall accept such title to the Goods as the Company has.
- 15.5 The Buyer's claims are excluded as far as the Buyer is responsible for the infringement of the Intellectual Property Rights.

16. **CONFIDENTIALITY**

- 16.1 The Buyer will keep confidential any and all Confidential Information that it may acquire.
- 16.2 The Buyer will not use the Confidential Information for any purpose other than to perform its obligations under the Contract. The Buyer will ensure that its officers and employees comply with the provisions of this **Condition 16**.
- 16.3 The obligations on the Buyer set out in **Condition 16.1** and **16.2** will not apply to any information which:
- 16.3.1 is publicly available or becomes publicly available through no act or omission of the Buyer; or
 - 16.3.2 the Buyer is required to disclose by order of a court of competent jurisdiction.

17. **GENERAL**

- 17.1 If any clauses or condition or part thereof in this Contract shall be found to be invalid, ineffective or unenforceable, that clause or condition shall not affect any other clause or

condition or part condition of the Contract thereof. All other parts of the Contract shall remain in full force and effect.

- 17.2 Each right or remedy of the Company under any Contract is without prejudice to any other right or remedy of the Company under this or any other Contract.
- 17.3 If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Contract and will be ineffective without, as far as is possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.
- 17.4 No failure or delay by the Company to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 17.5 The Company may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.
- 17.6 The Contract is personal to the Buyer who may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without the Company's prior written consent.
- 17.7 The parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 17.8 The Contract contains all the terms which the Company and the Buyer have agreed in relation to the Goods and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Goods. The Buyer 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. Any variation to the contract by the parties should be made in writing.

18. **COMMUNICATION**

- 18.1 Any notice, demand or communication or in connection with the Contract will be in writing and may be delivered by hand first class post (but not by e-mail), addressed to the recipient at its registered office (or such other address or person which the recipient has notified in writing to the sender in accordance with this **Condition 18**, to be received by the sender not less than seven Business Days before the notice is despatched).
- 18.2 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

19. **JURISDICTION**



The formation, existence, construction, performance, validity and all other aspects whatsoever of the Contract or of any term of the Contract will be governed by the laws of England and Wales. The Courts of England Wales will have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Contract.