

These Standard Terms of Supply shall apply to all contracts for the supply of goods and/or services by Knorr-Bremse Rail Systems (UK) Limited.

§1 Definitions

In this document the following words shall have the following meanings:

"Authorised Representative" shall mean the contact person who will serve as the authorised representative of one party and will be responsible for liaising directly with the contact person serving as authorized representative on behalf of the other party;

"Claim" shall mean a claim made by a third party against the Customer alleging infringement of an Intellectual Property Right of the third party by the Goods supplied by the Supplier or the work product of the Services performed by the Supplier pursuant to a contract for the supply of Goods and/or Services (as applicable) between the Customer and the Supplier;

"Customer" shall mean commercial companies, public law legal entities, special public funds or any other third party purchaser of goods or services from the Supplier;

"Defects Warranty Period" shall mean the period of twelve (12) months commencing on the date the Goods are delivered by or on behalf of the Supplier, the first date of the performance of the Services by the Supplier or the date the Goods are collected by or on behalf of the Customer (as applicable);

"Delaying Factor" shall mean all factors which cause the delivery of the Goods and/or the performance of the Services to be delayed until after the Delivery Date which are (i) beyond the control of the Supplier including, without limitation, failure of the Customer to provide timely collaboration or information to the Supplier as necessary in order for the Supplier to deliver the Goods and/or perform the Services or an Event of Force Majeure; or (ii) are caused otherwise than as a result of the negligence of the Supplier;

"Delivery Date" shall mean the date on which the Supplier will deliver the Goods to the Customer, the Supplier will perform the Services or the Customer will collect the Goods from the Supplier (as applicable) specified in the Order Confirmation or otherwise agreed in writing by the Supplier and the Customer;

"Delivery Details" shall mean the Place of Delivery and the Delivery Date;

"Documentation" shall mean any data, proposals, operating instructions and instructions of assembly, documentation, plans, drawings, patterns, models, designs or other material furnished or made available to the Customer by the Supplier pursuant to or in anticipation of a contract for the supply of Goods and/or Services between the Customer and the Supplier;

"Event of Force Majeure" shall mean strikes, lock-outs or other industrial disputes (whether involving the workforce of the party so prevented or of any other party), act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or default of suppliers or sub-contractors;

"Goods" shall mean the products sold by the Supplier to the Customer;

"Intellectual Property Rights" shall mean any patents, any extensions of the exclusivity granted in connection with patents, registered designs, trade marks, service marks, applications for any of the foregoing (including, but not limited to, continuations, continuations-in-part and divisional applications), the right to apply for and be granted any of the foregoing, rights in trade names, business names, brand names, get-up, logos, domain names and URLs, copyrights, design rights, rights in know-how, trade secrets and confidential information and all other forms of intellectual property right having equivalent or similar effect to any of the foregoing which may exist anywhere in the world;

"Order" shall mean an order for Goods and/or Services placed by the Customer with the Supplier;

"Order Confirmation" shall mean any document issued by the Supplier to the Customer confirming acceptance of the Order;

"Place of Delivery" shall mean the place specified in the Order Confirmation (or otherwise agreed in writing by the Supplier and the Customer) to which the Supplier will deliver the Goods, at which the Supplier will perform the Services or from which the Customer will collect the Goods (as applicable);

"Proposal" shall mean a statement of work, quotation, Order or other similar document describing the Goods and/or Services;

"Notification of Defects" shall mean a notice setting out defects in the Goods and/or Services identified by the Customer upon examination in accordance with §9 paragraph 1;

"Services" shall mean the services to be supplied by the Supplier to the Customer;

"Supplier" shall mean Knorr-Bremse Rail Systems (UK) Limited; and

"Terms" shall mean the terms and conditions of supply set out in this document and any special terms and conditions agreed in writing signed by the duly authorised representative of the Supplier.

§2 Contractual terms

1. The Terms shall prevail over any other documentation or communication from the Customer (including any terms or conditions which the Customer purports to apply under any Order, specification or other document).
2. No variation to these Terms shall be valid unless it is in writing and signed by the duly authorised representative of the Supplier.
3. Nothing in these Terms shall prejudice any legal remedy to which the Supplier may be entitled in relation to the Goods and Services, by virtue of any statute, law or regulation.

§3 Conclusion of the contract

1. Acceptance of a Proposal by the Customer or the Supplier will not create a binding contract. A binding contract between the Supplier and the Customer will be concluded once a written Order

Confirmation has been issued by the Supplier to the Customer only.

2. Each Order shall be the subject of a separate contract of sale between the Supplier and the Customer and shall be governed by these Terms, the relevant Order Confirmations and any variation of these Terms agreed in accordance with § 2, paragraph 2. All other terms and conditions are hereby expressly excluded. In the event of inconsistencies between these Terms (or a variation of these Terms agreed in accordance with § 2, paragraph 2) and an Order Confirmation, the Order Confirmation shall prevail.
3. A Customer may at any time before the first agreed Delivery Date request in writing that the Order concerned may be amended or cancelled. The Supplier may accept an amended Order at its discretion by providing to the Customer an Order Confirmation reflecting the amendment.
4. The Supplier shall have the right to revise and amend these Terms from time to time. The Customer shall be subject to the Terms in force at the time of placing its Order with the Supplier unless any change to these Terms is required by law or government or regulatory authority (in which case, it will apply to all Orders previously placed by a Customer that are yet to be fulfilled by the Supplier).

§4 Collaboration duties of the Customer

1. The Customer shall provide to the Supplier the name of the Authorised Representative on or before the conclusion of a contract for the supply of Goods and/or Services between the Customer and the Supplier.
2. The Customer shall immediately inform the Supplier if the identity of the Authorised Representative changes.
3. During pre-contractual negotiations, the Customer shall immediately inform the Supplier if circumstances arise which may prevent the Customer from concluding a contract for the supply of Goods and/or Services between the Supplier and the Customer (for example but without limitation, cancellation or reduction in a Customer's budget or short-term change or suspension of a project).
4. The Customer shall be responsible for providing all appropriate instructions, documents, information, licences or authorisations in a timely manner to enable the Supplier to deliver the Goods, prepare the Goods for collection and/or perform the Services (as applicable). The Supplier shall not be liable for any delay in the delivery of the Goods, the preparation of the Goods for collection and/or the performance of the Services (as applicable) caused by failure by the Customer to comply with its obligations under this §4 paragraph 4.

§5 Delivery

1. The Supplier shall deliver and the Customer shall take delivery of the Goods, the Supplier shall make available and the Customer shall collect the Goods and/or the Supplier shall perform the Services (as applicable): (i) on the Delivery Date; and (ii) to/at the Place of Delivery. Time shall not be of the essence for delivery of the Goods, for preparation of the Goods for collection by the Customer and/or for the performance of Services.
2. Where delivery of the Goods is the responsibility of the Supplier, any additional expenses which arise from delivery of the Goods to, at the request of the Customer, a Place of Delivery other than that originally set out in the Order Confirmation, shall be borne by the Customer.
3. If delivery of the Goods, preparation of the Goods for collection by the Customer and/or performance of the Services (as applicable) by the Supplier is or shall be delayed by a Delaying Factor, the Supplier shall be entitled to delay the Delivery Date for the Goods and/or Services for a period equivalent to the period in which the Delaying Factor remains in effect and for such further period as shall be deemed by the Supplier as reasonably necessary to enable it to deliver the Goods, prepare the Goods for collection and/or perform the Services once the Delaying Factor has ended. Upon becoming aware of the existence of a Delaying Factor, the Supplier shall inform the Customer's Authorized Representative of the existence of the Delaying Factor and shall repay the Customer the money paid (if any) by the Customer to the Supplier for the Goods and/or Services the delivery, performance or collection (as applicable) of which is delayed by the Delaying Factor. Payment for such Goods and/or Services shall, once delivered, performed or collected (as applicable) become payable in accordance with §8.
4. Where delivery of the Goods is the responsibility of the Supplier, the Delivery Date shall be deemed to have been met by the Supplier if the Goods to be delivered have left the Supplier's plant before the Delivery Date or if the Supplier has notified the Customer that the Goods are ready for shipment by the Delivery Date unless the Order Confirmation provides that delivery is to be made at the Supplier's expense, in which case the Delivery Date shall be deemed to have been met by the Supplier upon actual delivery of the Goods to the Place of Delivery. Where it is the responsibility of the Customer to collect the Goods, the Delivery Date shall be deemed to have been met by the Supplier if the Supplier has informed the Customer on or before the Delivery Date that the Goods are ready for collection.
5. The English language version of any Documentation shall take precedence over any foreign language version of any Documentation. Failure to deliver the Documentation with the delivery of the Goods and/or the performance of the Services and/or to ensure the Documentation is available for collection with the Goods (as applicable) shall not entitle the Customer to claim that the Delivery Date has not been met by the Supplier.
6. The Supplier may supply the Goods, prepare the Goods for collection and/or perform the Services (as applicable) in instalments to the extent that this is reasonable. Each instalment shall be a separate contract and no cancellation or termination of any one contract relating to an instalment shall entitle the Customer to terminate or cancel any other contract or instalment.
7. If (i) the delivery of the Goods by the Supplier, preparation of the Goods by the Supplier for collection by the Customer and/or the performance of the Services by the Supplier (as applicable) is entirely or partly delayed at the request of the Customer or as a result of a Delaying Factor which could reasonably have been prevented by the Customer; or (ii) delivery of the Goods by the Supplier to the Customer is delayed because the Customer, or carrier entrusted by the Customer to transport the Goods, objects to the transportation of the Goods in a manner which, whilst not being that which was set out in the Order Confirmation or otherwise agreed upon by the Supplier and the Customer, is nonetheless one which is a reasonable alternative, the following shall apply: the Customer shall be charged, from the seventh (7th) day following the Delivery Date, all costs incurred by the Supplier as a result of the delay, including without limitation, storage costs, but not less than 0.5 % of the invoice

value of the Goods and/or Services the delivery/preparation for collection/performance (as applicable) of which is delayed, unless the Customer can provide evidence that the loss has been smaller.

8. If delivery of the Goods is the responsibility of the Supplier, the Supplier shall be entitled to deliver the Goods in any manner reasonably deemed fit by the Supplier for delivery of Goods of such nature.
9. Subject to the Supplier's right to delay the Delivery Date pursuant to §5 paragraph 3, the Supplier shall be deemed to be in default of its obligations to deliver the Goods, prepare the Goods for collection by the Supplier and/or perform the Services only if the Supplier has received notice in writing from the Customer after the Delivery Date that the Delivery Date has fallen due and has not been met and has thereafter failed to deliver the Goods, prepare the Goods for collection by the Customer and/or perform the Services (as appropriate) by any reasonable deadline set by the Customer in the notice. All deadlines included in such notice must not be less than twelve (12) working days after the date of the notice.
10. The Supplier's liability in respect of its failure to deliver the Goods, prepare the Goods for collection by the Customer and/or perform the Services (as applicable) by the Delivery Date (subject to the Supplier's right to delay the Delivery Date pursuant to §5 paragraph 3), shall be limited to 0.5 %, but not exceeding altogether 5 %, of the invoice value of those Goods and/or Services the delivery/preparation for collection/performance of which has been delayed, for every week in which delivery/preparation for collection/performance is delayed except that where the delay is caused intentionally by the Supplier or is as a result of the Supplier's gross negligence. In this case, compensation for default shall be limited to the foreseeable damage typical for the type of contract.
11. Subject to the Supplier's right to delay the Delivery Date pursuant to §5 paragraph 3, in the event of breach or non-performance by the Supplier of a contract for the supply of Goods and/or Services between the Supplier and the Customer, and such breach or non-performance, if capable of remedy, has not been remedied by the Supplier within thirty (30) days of written notice of such breach or non-performance given by the Customer, the Customer may terminate such contract with immediate effect.
12. If collection of the Goods is the responsibility of the Customer, the Customer shall take delivery of the Goods within two (2) days of the Customer being notified by the Supplier that the Goods are ready for collection.
13. The Customer may not refuse to take delivery of, collect Goods and/or accept performance of Services on account of minor defects in the Goods and/or Services.

§6 Delivery Items

The Customer acknowledges that the Documentation may not always correspond with the Goods and/or Services themselves and that illustrations included in the Documentation do not constitute an assurance of a particular quality nor represent a guarantee. Particular guarantees relating to the Goods and/or Services shall be designated as such and confirmed by the Supplier in writing. No oral representations, warranty or other promise made by the Supplier or any of its personnel concerning the Goods/Services shall be binding on the Supplier.

§7 Passing of risk, acceptance

1. If delivery of the Goods is the Supplier's responsibility, risk of loss or damage to the Goods shall pass to the Customer upon actual delivery of the Goods to the Place of Delivery. If collection of the Goods is the responsibility of the Customer: (i) risk of loss or damage to the Goods shall pass to the Customer upon the Goods being made available for collection from the Place of Delivery at the time the Supplier informs the Customer that the Goods are ready for collection; and (ii) the Supplier shall, at the Customer's request and cost, insure the Goods against customary transport risks.
2. Notwithstanding §7 paragraph 1, if delivery of the Goods is the responsibility of the Supplier and the Goods are, at the request of the Customer, not delivered by the Supplier on the Delivery Date or otherwise not delivered on the Delivery Date as a result of (i) a Delaying Factor which could reasonably have been prevented by the Customer; (ii) the default of the Customer; or (iii) refusal by the Customer, without legitimate reason, to accept the Goods and/or Services upon delivery, risk of loss or damage to the Goods shall nevertheless pass to the Customer upon the Delivery Date.

§8 Prices, payment

1. The Customer shall pay the Supplier the prices set out in the Order Confirmation (or the Order if none) for the Goods and/or Services. The prices set out in the Order Confirmation are for delivery ex works without packing and insurance.
2. If the Supplier is to carry out installation of Goods, the price set out in the Order Confirmation shall not include ancillary costs not explicitly included in the Order Confirmation, such as freight, transport and travelling costs or any other expenses incurred by the Supplier in performing such installation.
3. The Supplier shall invoice the Customer at the times stated in the Order Confirmation or otherwise (i) in respect of the Services, at reasonable intervals during the performance of the Services or, if such provision takes longer than one calendar month, at the end of each calendar month in which each single Service is provided; and (ii) in respect of the Goods, upon delivery/collection (as applicable) of the Goods as a whole or upon delivery/collection (as applicable) of each instalment of the Goods.
4. Except as otherwise agreed in writing by the Supplier, the Customer shall pay the full amount invoiced to it by the Supplier within thirty (30) days of the date of the invoice without any deductions whatsoever. Payment shall be made in accordance with the instructions set out in the relevant invoice.
5. At its discretion, the Supplier may alternatively, however, make delivery conditional upon simultaneous or advance payment of the price for the Goods and/or Services (for example but without limitation, cash on delivery or bank direct debiting service), especially if, for example but without limitation, no previous business relationship exists between the Customer and the Supplier, if delivery is to be made to a foreign country or if the Supplier considers that there is a high risk of late payment.
6. If the Customer fails to pay any invoice issued by the Supplier by the due date, the Supplier shall be entitled (without prejudice to any other right or legal remedy it may have) to: (i) cancel or suspend any further delivery of the Goods, preparation of the Goods for collection or performance of the Services (as applicable) under any Order; (ii) make any or all future deliveries

of the Goods, preparation of the Goods for collection or performance of the Services (as applicable) conditional upon the Customer paying for them in advance; and/or (iii) charge the Customer interest on the outstanding amount at the statutory interest rate for late payments per annum above the base interest rate charged by the Bank Of England in force at the time the payment became due calculated on a daily basis from the date the payment became due until the date the payment in full is received by the Supplier (irrespective of whether the date of payment is before or after any judgment or award in respect of the same).

7. The Customer shall make all payments due in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Supplier to the Customer.
8. All payments due to the Supplier under a contract for the supply of Goods and/or Services between the Supplier and the Customer shall become immediately due on its termination notwithstanding any provision to the contrary.
9. All sums payable by the Customer to the Supplier are exclusive of any VAT chargeable on the supplies for which such sums (or any part of them) are the whole or part of the consideration for VAT purposes. The applicable VAT rate shall be the rate in force as at the date on which the payment became due.

§9 Obligation to examine and issue complaints

1. The Customer shall examine all Goods and/or Services immediately upon delivery, collection or performance of the Goods and/or Services (as applicable). The Customer shall provide to the Supplier a Notification of Defects within seven (7) days of delivery or collection of the Goods and/or Services (as applicable). The Customer's obligation to provide notice of any defects shall also apply to all Documentation but not to any hidden defects. Hidden defects shall be reported immediately after their discovery in the ordinary course of business.
2. All defects must be notified by means of a written Notification of Defects and shall describe the deviation from the contractual requirements in detail. Only the Authorized Representative may issue such Notification of Defects.
3. Verbal Notifications of Defects may be given by the Customer with the prior written consent of the Supplier only.
4. The Notification of Defects shall not be considered valid if the Authorised Representative of the Customer fails to: (i) include in the Notification of Defects a description of all the defects complained of; and (ii) in the case of defects in the Goods, return, at the request and expense of the Supplier such Goods (or that part of the Goods which is defective) to the Supplier's place of business.

§10 Defects and their remedy; warranties

1. The Supplier warrants that on delivery of the Goods by the Supplier or collection of the Goods by the Customer (as applicable) the Goods shall: (i) conform in all material respects with the technical specifications provided by the Supplier to the Customer pursuant to a contract between the Supplier and the Customer for the supply of Goods and/or Services in respect of which such technical descriptions relate; (ii) be of satisfactory quality.
2. The Supplier hereby warrants that the Services shall be performed by the Supplier with reasonable skill and care.
3. The Supplier shall not be liable for a breach of any of the warranties in §10 paragraphs 1 and 2 unless: (i) the Customer complies fully with §9; and (ii) the Supplier is given a reasonable opportunity after receiving the Notification of Defects to examine such Goods and/or Services.
4. The Supplier shall not be liable for a breach of any of the warranties in §10 paragraphs 1 if: (i) the Customer makes any further use of the Goods after giving a Notification of Defects in respect of such Goods; or (ii) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to storage, installation, commissioning, use or maintenance of the Goods and good trade practice; or (iii) the Customer alters or repairs such Goods without the written consent of the Supplier.
5. The Supplier shall not be liable for any defects in the Goods/Services following the Defects Warranty Period.
6. The Supplier may, at the request of the Customer, assist the Customer in identifying any defects in the Goods. If the defects identified (if any) cannot be directly attributed to the Supplier, the Supplier shall invoice the Customer at the Supplier's standard rates from time to time for the provision of such services.
7. Subject to §10 paragraph 3 and 4, if any of the Goods and/or Services do not conform with any of the warranties in §10 paragraphs 1 and 2, the Supplier shall at its option repair or replace such Goods (or the defective part), have the Service re-performed or any faulty or defective workmanship made good or refund a pro rata amount of the price paid by the Customer for the defective Goods and/or Services.
8. If the Supplier complies with §10 paragraph 7, the Supplier shall have no further liability for a breach of any of the warranties in §10 paragraphs 1 and 2 and the Customer's remedies under this §10 are in place of and to the exclusion of all other remedies whether in contract or tort (including but not limited to negligence) or by reason of statutory duty or otherwise.
9. Following rectification of a defect by the Supplier, any repaired or replaced Goods shall be guaranteed on these Terms for the unexpired portion of the Defects Warranty Period. In the event that, after more than one attempt, the Supplier fails to rectify the Goods/Services, the Customer may request a reasonable reduction in the purchase price set out in the relevant Order Confirmation.

§11 Retention of Title

1. Ownership of the Goods shall not pass to the Customer until the Supplier has received in full (in cash or cleared funds) all sums due to it in respect of (i) the Goods; and (ii) all other sums which are or which become due to the Supplier from the Customer on any account.
2. Until ownership of the Goods has passed to the Customer, the Customer shall (i) hold the Goods on a fiduciary basis as the Supplier's bailee; (ii) store the Goods free of charge; and (iii) insure the Goods on the Supplier's behalf for their full price against all risks to the reasonable satisfaction of the Supplier. On the Supplier's request, the Customer shall produce the policy of insurance to the Supplier. Prior to transfer of ownership of the Goods to the Customer, the Customer may, during the course of its business, process, mix or merge the Goods of the Supplier with other products except that the Supplier shall acquire joint ownership of the

products created as a result of such processing, mixture or merger. The amount of the Supplier's joint ownership share shall be determined by the ratio between the value of the Goods delivered by the Supplier and the value of the product created by the processing, mixing or merger at the time of such processing, mixing or merger.

3. The Customer may resell the Goods before ownership has passed to it on the condition that: (i) any sale shall be effected in the ordinary course of the Customer's business at full market value; (ii) any such sale shall constitute a sale of the Supplier's property on the Supplier's behalf and the Customer shall deal as principal when making such sale; and (iii) the Customer holds the proceeds of sale equivalent to the price paid by the Customer to the Supplier for such Goods on trust for the Supplier. The Customer hereby assigns to the Supplier with immediate effect all rights and remedies to which the Customer is entitled from the further sale of the Goods, irrespective of whether the Goods have been further processed, mixed or merged with other products. The rights of the Customer in this §11 paragraph 3 can be revoked by the Supplier in the event that the Customer fails to duly comply with its contractual duties towards the Supplier hereunder. Further, these rights shall also cease without any express revocation, if the Customer suspends payment of monies due to the Supplier for more than a temporary period.
4. Upon the request of the Supplier, the Customer shall advise the Supplier immediately in writing of the parties to whom the Goods, of which the Supplier has retained title or joint title, have been sold and of the rights and remedies to which the Customer is entitled on the basis of such sale.
5. At the option of the Supplier, the Customer's right to possession of the Goods shall immediately terminate and the Customer shall immediately return the Goods of which the Supplier has retained title or joint title to the Supplier (and, if delivery of the Goods, preparation of the Goods for collection by the Customer and/or performance of the Services (as applicable) is yet to be made or to be made in instalments, all future rights of the Customer to receive delivery of the Goods or performance of the Services or collect the Goods (as applicable) shall, at the Supplier's option, immediately terminate) if: (i) the Customer has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory), or has a receiver and/or manager, administrator or administrative receiver appointed over its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer or the Customer is unable to pay its debts as and when due or the Customer ceases to carry on its business in the ordinary course; or (ii) the Customer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under an Order, these Terms or any other contract between the Customer and the Supplier, or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Customer ceases to trade. Further, at the option of the Supplier, the Customer's right to possession of the Goods shall immediately terminate and the Customer shall immediately return the Goods of which the Supplier has retained title or joint title to the Supplier if any encumbrances or charges are awarded or taken over the Goods, of which the Supplier has retained title or joint title, or any rights relating thereto. The Customer shall immediately notify the Supplier if any encumbrance or charge is awarded or taken over the Goods of which the Supplier has retained title or joint title or any right or legal remedy relating thereto. At the request of the Supplier, the Customer shall cancel all such encumbrances and/or charges over the Goods of which the Supplier has retained title or joint title and bear all costs incurred in carrying out the same.
6. The Customer shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Supplier.
7. The Customer grants the Supplier, 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 Customer's right to possession has terminated, to recover them.
8. Where the Supplier is unable to determine whether any Goods are the goods in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all goods of the kind sold by the Supplier to the Customer in the order in which they were invoiced to the Customer.
9. In case of default of payment by the Customer or any breach by the Customer of a material contractual obligation owed by the Customer to the Supplier, the Supplier may demand the return of those Goods to which the Supplier has retained title or joint title or in which the Supplier holds an equitable lien. Such demand shall constitute withdrawal by the Supplier from the contract only if expressly stated by the Supplier.
10. On termination of the contract for the supply of Goods and/or Services between the Supplier and the Customer, howsoever caused, the Supplier's (but not the Customer's) rights contained in this §11 shall remain in effect.

§12 Further liability

1. All warranties, conditions and other provisions implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from all contracts for the supply of Goods and/or Services between the Supplier and the Customer.
2. Nothing in these Terms excludes or limits the liability of the Supplier (i) for death or personal injury caused by the Supplier's negligence; (ii) under Section 2(3) of the Consumer Protection Act 1987; (iii) for any matter which it would be illegal for the Supplier to exclude or attempt to exclude its liability; or (iv) for fraud or fraudulent misrepresentation.
3. Except as expressly set out in §5 paragraph 10 and §10 paragraph 9 and subject to §12 paragraphs 1 and 2 the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of a contract for the supply of Goods and/or Services between the Supplier and the Customer shall be limited to the price set out in the relevant Order Confirmation. The Supplier shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for indirect or consequential loss whatsoever (howsoever caused) which arise out of or in connection with a contract for the supply of Goods and/or Services between the Supplier and the Customer.

§13 Intellectual Property Rights and Non Disclosure

1. All Intellectual Property Rights in the Documentation shall remain vested solely in the Supplier.
2. All Intellectual Property Rights in the Goods and/or Services (whether or not developed before, during or after a contract for the Supply of Goods and/or Services between the Customer and the Supplier or accruing from the Supplier's co-operation with the Customer or from the Customer's instructions) shall remain vested in the Supplier.
3. The Customer shall not, without the prior written consent of the Supplier, reproduce or disclose to a third party (except to the extent necessary for the implementation of an Order) the Documentation, these Terms or any contract for the supply of Goods and/or Services between the Customer and the Supplier. If a contract for the supply of Goods and/or Services between the Customer and the Supplier is not concluded or upon termination of such contract, the Customer shall, at the discretion of the Supplier, either return to the Supplier or destroy all Documentation and shall make no further use of the same. The Authorised Representative shall provide a signed, written confirmation to the Supplier that the Customer's obligations under this §13 paragraph 3 have been complied with.

§14 Rights of third parties

1. The Supplier warrants that the Goods do not infringe any Intellectual Property Rights of third parties.
2. If any third party makes a Claim against, or notifies an intention to make a Claim against, the Customer, the Customer shall (i) promptly give written notice of that matter to the Supplier, specifying in reasonable detail the nature of the relevant Claim; (ii) not make any admission of liability, agreement or compromise in relation to the relevant Claim without the prior written consent of the Supplier; (iii) allow the Supplier complete control over any negotiations or litigation and/or the defence or settlement of any Claim; and (iv) at the request and expense of the Supplier, do all such things as the Supplier may reasonably request to assist the Supplier in resisting any proceedings in relation to any such Claim.
3. Subject to the Customer complying with its obligations under §14, paragraph 2, the Supplier shall, at its own expense, procure any licences required to avoid the claim, modify the Goods and/or the work product of the Services in such way so as to avoid the claim or exchange the Goods and/or re-perform the Services in such a way so as to avoid the claim. The Supplier may decide, in its absolute discretion, which action to take or, if in the Supplier's opinion, it is not possible to avoid the claim through the performance of any of the actions, (i) the Supplier shall reimburse the Customer a reasonable proportion of the purchase price (less a reasonable amount in consideration of the benefit already received by the Customer) paid by the Customer in relation to the Goods/Services concerned; and (ii) the Customer may withdraw from the contract for the Supply of Goods or Services concerned by written notice to the Supplier. At the request of the Supplier, the Customer shall return to the Supplier, at the Supplier's expense, the Goods or the work product of the Services concerned and shall cease all further use of the Goods and/or the work product of the Services (as applicable).
4. The obligations of the Supplier in §14, paragraph 2 shall not apply if the Claim results from (i) use by the Customer of any part of any Goods or any work product of the Services for a purpose or in a manner which was unforeseeable to the Supplier at the Delivery Date; (ii) the Supplier's use of any material provided by the Customer or the Supplier's compliance with any specifications or instructions of the Customer; or (iii) the processing, use, mixture or merger of the Goods or the work product of the Services with other products.
5. The Customer's rights under this §14 shall be the Customer's sole remedies in respect of the claim giving rise to such rights under this §14.

§15 Miscellaneous

1. If any of these Terms shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other Terms which shall remain in full force and effect. In such event, the Supplier and the Customer shall in good faith attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.
2. These Terms and any contract for the supply of Goods and/or Services between the Supplier and the Customer constitute the entire agreement and understanding of the Supplier and the Customer and supersede any prior agreement or understanding between the Supplier and the Customer. The Customer and the Supplier acknowledge that in entering into a contract for the supply of Goods and/or Services and/or in becoming bound by these Terms, they do not rely on any statement, representation (other than a fraudulent misrepresentation), warranty, course of dealing, custom or understanding except for those expressly set out in writing in the contract between the Supplier and the Customer or these Terms. The Supplier and the Customer irrevocably and unconditionally waive any rights and/or remedies they may have to the fullest extent permitted by law in respect of any misrepresentation other than one which is expressly set out in these Terms or in writing in the contract between the Supplier and the Customer for the supply of Goods and/or Services or which was made fraudulently. All declarations of the Customer (including, without limitation, order acknowledgements, purchase orders and objections) shall be binding on the Supplier only if made in writing and confirmed by the Supplier in written form. No change shall be made to these Terms except in writing signed by the duly authorised representative of the Customer and the Supplier.
3. The Customer may not, without the prior written consent of the Supplier, assign, sub-contract or otherwise deal with these Terms or any contract for the supply of Goods and/or Services between the Supplier and the Customer or its rights or obligations there under.
4. The Supplier and the Customer shall submit any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to these Terms, the Goods and/or the Services to arbitration (the form of which to be agreed by the Supplier and the Customer at the time) for final resolution. The venue for arbitration shall be London.
5. The Customer shall do or procure to be done all such further acts and things and execute or procure the execution of all such other documents as the Supplier may from time to time require for the purpose of giving the Supplier the full benefit of the provisions of these Terms.
6. English law shall govern the validity, interpretation and performance of these Terms and the Supplier and the Customer submit irrevocably to the exclusive jurisdiction of the English Courts in respect thereof.