



Pavilion Systems Limited

Terms and Conditions of Sale

The Customer's specific attention is drawn to clauses 2 and 6-10 of these Conditions.

1. Definitions

1.1 In these Conditions, the following words and phases shall have the meanings set out as follows:

Affected Party has the meaning given in clause 16.

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

Customer means the party to which the Supplier sells the Goods whose details are set out in the Quotation.

Conditions means the standard terms and conditions of sale set out in the document as amended from time to time in accordance with clause 2.2 (unless the context otherwise requires) and including any special terms agreed between the parties.

Contract means the contract for the purchase and sale of the Goods on the basis of these Conditions and the Quotation.

Force Majeure means any circumstance not within a party's reasonable control including, without limitation, act of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanction, embargo, or breaking off diplomatic relations; nuclear, chemical or biological contamination or sonic boom; and law or action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); and interruption or failure of utility service.

Goods means the goods (including, where applicable any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with these Conditions as detailed in the Quotation.

Group means in relation to the Supplier, that company, its Holding Company, Subsidiaries, any subsidiaries of its Holding Company from time to time and any other companies under common ownership as the Holding Company.

Holding Company means a company which holds the majority of voting rights in a Subsidiary, is a member of the Subsidiary and has the right to appoint or remove a majority of its board of directors, or is a member of it and control alone under agreement with other members, a majority of the voting rights in the company, or if it is a Subsidiary of a company that is itself a Subsidiary of that other company.

Intellectual Property means copyrights, database rights, trade marks, trade names, domain names, rights in logos, inventions, trade secrets, technical information and know-how, patents, design rights and all rights of whatever nature in computer software and data, all rights of privacy and intangible rights and privileges of a nature similar to any of the above, in every case in any part of the world and whether or not registered, and including all granted or pending registrations, and all rights to make applications for registration in respect of any of the same and further Intellectual Property that the Supplier may permit.

Loss means actions, awards, charges, claims, compensation, costs, damages, demands, expenses, fees, fines, liabilities, losses, penalties, proceedings and settlements.

Order the Customer's written purchase order for the Goods (in whatever form this may be and which shall for the avoidance of doubt include email), raised in response to the Quotation and in accordance with clause 2 below.

Order Period has the meaning given in clause 2.2.

Promotional Materials the Supplier's catalogues, brochures, Websites or such other applicable sales or promotional literature, materials or publications.

Specification any specification for the Goods, including any related plans, images and other drawings in connection with the Goods as detailed in the Quotation.

Subsidiary means in relation to a company wherever incorporated (the holding company), any company in which the Holding Company (or persons acting on its or their behalf) directly or indirectly holds or controls either a majority of the voting rights exercisable at shareholder meetings of that company or the right to appoint or remove a majority of its board of directors or such other member of the Group or third party as is named in the Quotation and/or otherwise entering into the Contract, as the case may be.

Supplier means Pavilion Systems Limited (Company Registration number 03530695) of Unit B2 Ford Airfield Industrial Estate, Ford, Arundel, England, BN18 0HY or such other member of the Group or third party as is named

on the Quotation and/or otherwise entering into the Contract, as the case may be.

Warranty Period has the meaning given in clause 8.2.

Writing includes faxes, e-mail and comparable means of communication.

- 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.3 Unless otherwise specified, references to clauses, schedules and paragraphs are to the clauses of and the schedules to this Contract and paragraphs to those schedules. The headings in these Conditions are for convenience only and shall not affect their interpretation. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.4 References to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established. A person includes a corporate or unincorporated body.
- 1.5 The parties declare that they each have the right, power and authority and have taken all action necessary to execute and deliver and to exercise their rights and perform their obligations under this Contract. A reference to any party shall include that party's personal representatives, successors or permitted assigns.

2. Formation and Basis of Contract

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Quotation shall remain valid for a period of 30 days from the date specified on it (**Order Period**) and if the Customer accepts the position set out in the Quotation then it shall be required to raise an Order within the Order Period.
- 2.3 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions and shall not incorporate any other terms and conditions beyond those set out in the Contract. The Customer is responsible for ensuring that the terms of the Quotation and the Order and any applicable Specification submitted by the Customer are complete and accurate.
- 2.4 The Supplier may reject the Order at its absolute discretion and for any reason whatsoever and the Order shall only be deemed to be accepted at the earlier of when the Supplier delivers the Goods or issues a Sales Confirmation, at which point the Contract shall come into existence.
- 2.5 Following the formation of the Contract, no Order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in Writing of the Supplier and on terms that the Customer shall indemnify the Supplier in full against all Loss incurred by the Supplier as a result of that cancellation.
- 2.6 Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions, colours or illustrations contained in the Promotional Materials are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.7 Any typographical, clerical or other error or omission in any Promotional Materials, Quotation, Sales Confirmation, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.
- 2.8 The Supplier's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Supplier in Writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed.
- 2.9 Any advice or recommendation given by the Supplier or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Supplier is followed or acted upon entirely at the Customer's own risk, and accordingly the Supplier shall not be liable for any such advice or recommendation which is not so confirmed.

3. The Goods

- 3.1 The Goods are described in the Promotional Materials as modified or supplemented by any applicable Specification.
- 3.2 The Customer shall indemnify the Supplier against all Losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property rights arising out of or in connection with the Supplier's use of the Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements from time to time in force or to improve the Goods where to do so would not have a material adverse effect on the Customer by affecting the quality or performance of the Goods.
- 3.4 The Customer agrees and acknowledges that it has read and understood the Guidelines in full and that it shall at all times operate within the rules and procedures set out therein.

- 3.5 Where the Guidelines are applicable and the Customer fails to act in accordance with the Guidelines, commits any act or omission which the Supplier reasonably deems likely to result in a breach of the Guidelines or which could have an adverse effect on the goodwill, reputation and standing of the Goods or their composition:
- 3.5.1 the Supplier may terminate or suspend this Contract with immediate effect;
 - 3.5.2 the Customer's right to resell the Goods shall immediately cease;
 - 3.5.3 the Customer shall indemnify, keep indemnified and hold harmless the Supplier for and against any and Losses (including any direct, indirect or consequential losses, loss of profit, loss of goodwill and reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier.

4. Price of the Goods

- 4.1 The price of the Goods shall be either the Supplier's written quoted price, errors and omission excepted, or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Supplier's published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Customer, after which time they may be altered by the Supplier without giving notice to the Customer.
- 4.2 Unless otherwise specified in the Quotation, all prices are quoted on an EXW (Incoterms, 2010) basis.
- 4.3 The price is exclusive of any applicable value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice.
- 4.4 The price of the Goods excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

5. Terms of Payment

- 5.1 Subject to any special terms set out in the Quotation or otherwise agreed in Writing between the Customer and the Supplier, the Supplier shall be entitled to invoice the Customer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Supplier shall be entitled to invoice the Customer for the price of any time after the Supplier has notified the Customer that the Goods are ready for collection or (as the case may be) the Supplier has tendered delivery of the Goods.
- 5.2 The Customer shall pay to the Supplier the price of Goods as shown in the Supplier's invoice and in accordance with any payment schedule specified by the Supplier. All payments shall be made in cleared funds within 30 days of the date of the invoice to such bank account nominated in Writing by the Supplier.
- 5.3 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:
- 5.3.1 appropriate any payment made by the Customer to such of the Goods (or the Goods supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer); and
 - 5.3.2 charge the Customer interest from the date of the invoice(s) at the rate of 8% per annum above the Bank of England's base rate. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.; and
 - 5.3.3 cancel the Contract or suspend performance or any further deliveries to the Customer, whether under this contract or any other existing contracts.

6. Delivery

- 6.1 Delivery of the Goods shall be made by either:
- 6.1.1 the Customer collecting the Goods at the Supplier's premises at any time after the Supplier informs the Customer they are ready for collection; or
 - 6.1.2 the Supplier delivering the Goods to the Customer's premises or any other place agreed in Writing by the Supplier and the Customer. Where the Supplier agrees to deliver the Goods otherwise than at the Supplier's premises, the Supplier shall be under no obligation under section 32(2) of the Sale of Goods Act 1979.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Supplier shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Supplier in Writing. The Goods may be delivered by the Supplier in advance of the quoted delivery date upon giving reasonable notice to the Customer.
- 6.3 Where the Goods are to be delivered in instalments, each delivery shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall constitute not entitle the Customer to cancel any other instalment or treat the Contract as a whole as repudiated.
- 6.4 The Supplier 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 Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 6.5 Upon delivery to the Customer all Goods should be examined. The Supplier shall not be liable for any shortages in, or non-delivery of, or transport damage of, Goods unless the same is notified by the Customer to the Supplier (together with all specific details) in Writing within 2 Business Days of the actual or anticipated date of delivery (as relevant). Subject to such notice being provided the Supplier shall, if it is satisfied that any Goods have not been delivered and the cause thereof being beyond the reasonable control of the Supplier, at its sole discretion, either arrange for delivery as soon as reasonably possible or give credit to the Customer for such Goods.
- 6.6 If the Customer fails to take delivery of the Goods or fails to give the Supplier adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Supplier's fault) then, without prejudice to any other right or remedy available to the Supplier, the Supplier may:
- 6.6.1 store the Goods until actual delivery and charge the Customer for the reasonable costs and expenses (including insurance) of storage; and
- 6.6.2 if such storage continued for a period of 10 Business Days, sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.

7. Risk and Title

- 7.1 Risk of damage to Goods, or loss of the Goods shall pass from the Supplier to the Customer as follows:
- 7.1.1 on collection from the Supplier's premises or upon the Supplier notifying the Customer the Goods are available for collection from the Supplier's premises; or
- 7.1.2 upon delivery to the Customer's premises or such place requested by the Customer and agreed by the Supplier; or
- 7.1.3 if the Customer fails to take delivery of the Goods upon the Supplier tendering delivery to the Customer.
- 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, title to the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods.
- 7.3 Until title to the Goods passes to the Customer, the Customer shall hold the Goods as the Supplier's fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and third parties so that they remain readily identifiable as the Supplier's property, protected and insured against all risks from their full price from the date of delivery.
- 7.4 The Customer shall be entitled to resell or use the Goods in the ordinary course of its business.
- 7.5 Until such time as the property in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold), the Supplier shall be entitled at any time to require the Customer to deliver up the Goods to the Supplier and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Goods are stored and repossess the Goods.
- 7.6 The Customer 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 Supplier, but if the Customer does so all monies owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.

8. Quality and Inspection

- 8.1 The Customer is relying on its own skill and judgement in relation to the Goods and their inherent works irrespective of any knowledge which the Supplier or its servants, agents employees may have as to the purpose for which the Goods are supplied or their suitability.
- 8.2 Subject to Conditions 8.1 and 8.3 the Supplier warrants that all Goods shall be of satisfactory quality and fit for the purpose for which they were supplied upon delivery, and in the case of:
- 8.2.1 Ultraframe System Components and Ultrasky for white unpainted, powder coated aluminium and foiled roofs for 10 years;
- 8.2.2 WARMRoof Components foiled for woodgrain effect foil for 5 years;
- 8.2.3 PVC Ultraframe System Components sprayed for colour effect for 5 years;
- 8.2.4 complete WARMroof roofs supplied with tiles / cladding for 10 years;
- 8.2.5 complete WARMroof roofs supplied without tiles / cladding for 5 years;
- 8.2.6 Ultralite 500 (PVCu) Roof Components for white roofs for 10 years (but this warranty does not cover possible colour changes to the Ultralite panel greater than a value 3 when tested in accordance with ASTM D1925;
- 8.2.7 electrical components and ironmongery for 12 months
- 8.2.8 Opus composite window & doors for 10 years;

- 8.2.9 Opal aluminium window & doors for 10 years;
 - 8.2.10 Glass units supplied as part of a complete order for 10 years;
 - 8.2.11 Opal rooflight for 10 years;
 - 8.2.12 Verandah system support post and beam for 10 years;
 - 8.2.13 IX250 orangery system supplied without external deck finish for 10 years;
 - 8.2.14 brown, light oak and black extruded guttering & external ridge capping for 5 years;
 - 8.2.15 fading or chalking of brown, light oak and black extruded guttering & external ridge capping for 3 years, in each case from the date of delivery in accordance with clause 6 (**Warranty Period**) and subject to any applicable installation and usage guidelines supplied with the relevant Goods. Any and all conditions, warranties or other terms whether express or implied, statutory or otherwise, inconsistent with the provision of this clause 8.2, are expressly excluded.
- 8.3 The warranty given in clause 8.2 will not apply:
- 8.3.1 where the defect complained of arises from any Specification supplied by the Customer or arises from fair wear and tear, wilful damage, the Customer's negligence, abnormal working conditions or misuse or alteration without written consent of the Supplier; or
 - 8.3.2 repair of the Goods without the Supplier's approval or arises from any failure to follow the Company's instructions (whether oral or in Writing) and whether relating without limit to the fabrication, lateral support, ventilation, operation, use or maintenance of the Goods (the Customer acknowledges that the Goods are intended for use in Northern European environmental conditions and use of any Goods where the ranges of environmental condition, including without limit ultra violet light, heat or humidity is not in accordance with the Supplier's instructions and will not be covered by the warranty given in clause 8.2; or
 - 8.3.3 if the Supplier or its agents is not given a reasonable opportunity to safely inspect the Goods; or
 - 8.3.4 if the total price for the Goods or Services has not been paid by the due date for payment; or
 - 8.3.5 if the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or
 - 8.3.6 to any parts, materials, equipment not manufactured by the Supplier, in respect of which the Customer shall only be entitled to the benefit of any warranty or guarantee as is given by the manufacturer to the Supplier; or
 - 8.3.7 to any perils usually treated as insurance risks, including without limitation, fire and flood, whether or not such insurance is actually held; or
 - 8.3.8 in respect of powder coated aluminium windows and doors. The material coated is sited within direct influence of zones of salt water (within 500 metres of high tide line) acid or industrial or other aggressive emission sources which are known or believed to be damaging or corrosive to thermosetting powder coating.
- 8.4 The obligations of the Supplier under the Contract are limited such that in the event of a breach by the Supplier of the warranty in clause 8.2 or any defect in any Goods the Supplier shall only be obliged (and shall have no further liability in contract, tort (including negligence), breach of statutory duty or otherwise for any defect in the quality of the Goods or fitness for purpose of the Goods) at its option whether to refund the price (if already paid) attributable to the faulty Goods or repair, rectify or replace the faulty Goods (provided that the Customer has provided safe access to the Goods to the Supplier or its agent) provided that it received notice of such breach from the Customer within the Warranty Period.
- 9. Limitation of Liability**
- 9.1 Nothing in these Conditions shall exclude or limit the liability of the Supplier for death or personal injury caused by the Supplier's negligence, or the negligence of its employees, agents or subcontractors, for fraud or fraudulent misrepresentation or any other matter in respect of which it would be unlawful for the Supplier to exclude or limit its liability.
- 9.2 The Supplier shall not be liable to the Customer in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever and whatsoever the cause thereof:
- 9.2.1 for any economic Loss of any kind whatsoever, including without limit loss of profit, business, contracts, revenues or anticipated savings; or
 - 9.2.2 for damage to the Customer's reputation or goodwill; or
 - 9.2.3 for any Loss resulting from any claim made by any third party; or
 - 9.2.4 for any special, indirect or consequential Loss (including without limit those relating to the removal or rectification work required in connection with the installation of repaired or substitute Goods) arising under or in connection with the Contract.
- 9.3 Without prejudice to Conditions 8.2, 9.1 and 9.2 the Supplier's maximum liability in contract, tort (including negligence or breach of statutory duty) or otherwise arising by reason of or in connection with the Contract shall be limited to the greater of the Contract price.

- 9.4 Where the Goods are not manufactured by the Supplier the Supplier gives no assurance or guarantee that the sale or use of the Goods will not infringe Intellectual Property rights of any third party.

10. Indemnity

- 10.1 If any claims are made against the Customer that the Goods infringe or that their use or re-sale infringe the Intellectual Property rights of any third party, then unless the claim arises from the use of any drawing, design or specification supplied by the Customer, the Supplier shall indemnify the Customer against all direct Losses awarded against or incurred by the Customer in connection with the claim, provided that:
- 10.1.1 the Supplier is given full control of any proceedings or negotiations in connection with any such claim;
- 10.1.2 the Customer shall give the Supplier all reasonable assistance for the purposes of any such proceedings or negotiations;
- 10.1.3 except pursuant to a final award, the Customer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Supplier (which shall not be reasonably withheld);
- 10.1.4 the Customer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Customer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Customer recovers any sums under such policy or cover (which the Customer shall use its best endeavours to do);
- 10.1.5 the Supplier shall be entitled to the benefit of, and the Customer shall accordingly account to the Supplier for all damages and costs (if any) awarded in favour of the Customer which are payable by, or agreed with the consent of the Customer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of such claim; and
- 10.1.6 without prejudice to any duty of the Customer at common law, the Supplier shall be entitled to require the Customer to take such steps as the Supplier may reasonably require to mitigate or reduce any such Loss for which the Supplier is liable to indemnify the Customer under this clause.
- 10.2 The Customer shall indemnify the Supplier, keep the Supplier indemnified and hold the Supplier harmless from and against any and all Loss suffered or incurred by the Supplier, whether in contract, tort (including negligence), breach of statutory duty or otherwise and whether of a direct, indirect, consequential or special nature and including any loss of profit, loss of goodwill, loss of business, loss of business opportunity, loss of anticipated saving and loss or corruption of data or information.

11. Intellectual Property

- 11.1 The Supplier authorises the Customer to apply to the Goods the Supplier's Intellectual Property rights including but not limited to its registered trade marks for the purposes of exercising its rights and performing its obligations, subject to and for the duration of, this Contract.
- 11.2 The Customer acknowledges and agrees that all rights in the Intellectual Property shall remain in the Supplier, and that the Customer has and will acquire no right in them by virtue of the discharge of its obligations under this Contract, except for the right to use the Intellectual Property as expressly provided in this Contract.
- 11.3 The Goods shall be sold under the Supplier's Intellectual Property and the Customer shall not alter, deface or remove any reference to the Intellectual Property unless agreed between the parties in Writing.
- 11.4 The Customer shall use the Supplier's Intellectual Property on or in relation to the Goods in the manner specified by the Supplier from time to time.
- 11.5 All art works applied by the Supplier from time to time for use in relation to the Goods or their labelling or packaging, and all Intellectual Property in respect of it, shall belong exclusively to the Supplier.
- 11.6 The Customer shall at the request and expense of the Supplier take all such steps as the Supplier may reasonably require to assist the Supplier in maintaining the validity and enforceability of any Intellectual Property rights and shall enter into such formal licences as the Supplier may reasonably request for this purpose. The Customer shall not represent that he has any title in or right of ownership to any of the Supplier's Intellectual Property Rights or do or suffer to be done any act or thing which may in any way impair the rights of the Supplier in any of the Supplier's Intellectual Property Rights or bring into question the validity of its registration.
- 11.7 The Customer shall promptly and fully notify the Supplier of any actual or threatened infringement of any of the Supplier's Intellectual Property rights which come to the Customer's notice or which the Customer suspects has taken or may take place.

12. Termination and Consequences of Termination

- 12.1 Without affecting any other right it may be entitled to, either party may give notice in Writing to the other terminating this Contract immediately if:
- 12.1.1 the other party commits a breach of any material term of this Contract and (if such breach is remediable) fails to remedy that breach within 10 Business Days of being notified in Writing to do so; or
- 12.1.2 the other party repeatedly breaches any of the terms of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to

- the terms of this Contract; or
- 12.1.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of s123 of the Insolvency Act 1986; or
- 12.1.4 the other party takes any step or action in connection with its entering in administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to solvent restructuring), being wound up (whether voluntarily or by order of the court), having a receiver appointed to any of its assets or ceasing to carry on business; or
- 12.1.5 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business.
- 12.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract if the Customer becomes subject to any of the events listed in clause 12.1 or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 12.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving notice to the Customer if the Customer fails to pay any amount due under the Contract.
- 12.4 On termination of the Contract for any reason the Customer shall immediately pay the Supplier all of the Supplier's outstanding invoices and interest.
- 12.5 Termination of the Contract 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 this Contract that existed at or before the date of termination or expiry.
- 12.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

13. Export Terms

- 13.1 In respect of any Contracts which effect the export of any Goods outside of the United Kingdom:
 - 13.1.1 unless otherwise agreed in Writing by the Company the currency will be pounds sterling and payment shall be by way of confirmed irrevocable letter of credit to be opened at a bank nominated by the Company at the Customer's expense;
 - 13.1.2 the Customer shall be responsible for complying with any legislation or regulations governing the export of the Goods from the United Kingdom and governing the importation of the Goods into the country of designation and for the payment of any duties or taxes on them.
 - 13.1.3 the warranty in clause 8.2 shall not apply.

14. Entire Agreement

- 14.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreement, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 14.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

15. Notices

- 15.1 Any notice or other communication given to a party under or in connection with this Contract shall be in Writing and shall be:
 - 15.1.1 delivered by hand, 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); or
 - 15.1.2 sent by email to the following address: enquires@prefixsystems.co.uk.
- 15.2 Any notice or communication shall be deemed to have been received:
 - 15.2.1 If delivered by hand, on signature if a delivery receipt or at the time the notice is left or received at the proper address;
 - 15.2.2 If sent by pre-paid first-class post or other next working day delivery service, at 09:00am on the second Business Day after posting or at the time recorded by the delivery service;
 - 15.2.3 If sent by email, at 09:00am on the next Business Day after transmission provided that a valid receipt has been received.
- 15.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

16. Force Majeure

In the event that the Supplier is prevented or delayed in or from carrying out its obligations under the Contract as

a result of a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

17. General

- 17.1 Save as otherwise provided for in this Contract, no amendment or variation of this Contract shall be effective unless it is in Writing and signed by the parties (or their authorised representatives).
- 17.2 No failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 17.3 If any provision or part provision of these Conditions is or becomes invalid or unenforceable in whole or in part, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 17.4 The Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Contract without the prior written consent of the Supplier. The Supplier may assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Contract without the prior written consent of the Customer.
- 17.5 These Conditions are and shall at all times remain confidential as between the Supplier and the Customer and neither party shall disclose the existence of the terms of the Contract except to their professional advisors, as required by any statutory or regulatory authority or a Court of law.
- 17.6 The provisions of the Contracts (Rights of Third Parties Act) 1999 are excluded from this Contract and no person who is not a party to this Contract shall have any rights (express or implied) to enforce any term of this Contract.

18. Governing Law and Jurisdiction

- 18.1 This Contract and any dispute or claim arising out of or in connection with or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales
- 18.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

BY SIGNING BELOW, YOU AGREE TO ALL OF THE TERMS AND CONDITIONS OUTLINED ABOVE

Company: _____

Date: _____

Print Name: _____

Position: _____

Signed: _____