

Terms and conditions

1. Introduction

- 1.1. This document (together with any documents referred to in it) tells you the terms and conditions (the 'Conditions') upon which we will sell the Goods and supply the Services listed on this website (the 'Website') to you.
- 1.2. Before confirming your order please:
 - 1.2.1. Read through these Conditions and in particular our cancellations and returns policy at clause 13 and limitation of our liability and your indemnity at clause 18
 - 1.2.2. Print a copy for future reference
 - 1.2.3. Read our privacy policy regarding your personal information
- 1.3. By ordering any of the Goods and Services listed on this Website, you agree to be legally bound by these Conditions. You will be unable to proceed with your transaction if you do not accept these terms and conditions as may be modified or amended and posted on this Website from time to time.
- 1.4. We reserve the right to revise and amend the Website, our disclaimers and the Conditions at any time without notice to you. Your continued use of the Website (or any part thereof) following a change shall be deemed to be your acceptance of such change. It is your responsibility to check regularly to determine whether we have changed these Conditions.

2. About us

- 2.1. This Website is owned and operated by Takeaway Software ('we'/'us'/'our'), a limited company registered in England and Wales under company number: 09267729 having our registered office at 1b Almoners Lane, Peterborough, Cambridgeshire, PE3 9EH.
- 2.2. Our telephone number is 01733 687 332.

3. Communications

- 3.1. You agree that email and other electronic communications can be used as a long-distance means of communication and acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing.
- 3.2. We will contact you by email or provide you with information by posting notices on our Website.

4. Overseas orders

- 4.1. Our Website is only intended for use by customers resident in England, Wales, Scotland and Northern Ireland (the United Kingdom).
- 4.2. We will not accept orders for goods from individuals located outside the United Kingdom. We may agree to provide our services if you are resident in the European Economic Area (EEA), subject to reserving a right to amend the specifications or standards of the services offered on the Website and/or these Conditions or to refuse to accept an order for our services from you, if it will put an excessive strain on our business or if we have an objective reason for doing so. If we accept your order, you will be liable to pay for all and any additional costs that we incur in order to facilitate your order. You will have an opportunity to cancel your order in case the additional costs are not acceptable.
- 4.3. If we agree to supply any services ordered from the Website for delivery outside the United Kingdom they may be subject to import duties and/or additional taxes or expenses incurred due to complying with foreign regulatory requirements or laws. You will be responsible for payment of any such duties and/or taxes in addition to our price including the cost of delivery (in the case of goods). Please note that we have no control over these charges and cannot predict their amount. Please contact your local customs office or taxation authority for further information before placing your order.

- 4.4. You must comply with all applicable laws and regulations of the country for which the Services are destined. We will not be liable for any breach by you of any such laws.

5. Registration

- 5.1. When registering on the Website you must choose a username and password. You are responsible for all actions taken under your chosen username and password.
- 5.2. By registering on the Website you undertake:
 - 5.2.1. That all the details you provide to us for the purpose of registering on the Website and purchasing the Goods and Services are true, accurate, current and complete in all respects
 - 5.2.2. To notify us immediately of any changes to the information provided on registration or to your personal information
 - 5.2.3. That you are over 18 or if under 18 you have a parent or guardian's permission to register with and purchase the Goods and Services from this Website in conjunction with and under their supervision
 - 5.2.4. To only use the Website using your own username and password
 - 5.2.5. To make every effort to keep your password safe
 - 5.2.6. Not to disclose your password to anyone
 - 5.2.7. To change your password immediately upon discovering that it has been compromised
 - 5.2.8. To neither transfer or sell your username or password to anyone, nor permit, either directly or indirectly, anyone other than you to use them
- 5.3. You authorise us to transmit your name, address and other personal information supplied by you (including updated information) to obtain information from third parties about you, including, but not limited to, credit reports and so that we may authenticate your identity.

6. Eligibility to purchase from the Website

- 6.1. To be eligible to purchase the Goods and Services on this Website and lawfully enter into and form contracts with us, you must:
 - 6.1.1. Be 18 years of age or over
 - 6.1.2. Be legally capable of entering into a binding contract
 - 6.1.3. Provide full details of an address in the United Kingdom for delivery of goods and, if purchasing services, an address in the United Kingdom or the European Economic Area (if you reside in the EEA)
- 6.2. If you are under 18, you may only use the Website in conjunction with, and under the supervision of, a parent or guardian. If you do not qualify, you must not use our Website.

7. Price

- 7.1. The prices of the Goods and Services are quoted on the Website.
- 7.2. Prices quoted are for delivery (in the case of goods) and for performance (in the case of services) in the United Kingdom unless otherwise specified.
- 7.3. Unless otherwise stated, the prices quoted include delivery costs (in the case of goods) but exclude VAT (we are not VAT registered).
- 7.4. We reserve the right, by giving notice to you at any time before delivery or performance of our obligations to you, to increase the price of the Goods and Services to reflect any increase in the cost to us due to any factor beyond our control (such as without limitation, any foreign exchange fluctuation, significant increase in the costs of labour, materials or other costs of manufacture). In the unlikely event of this occurring, you shall be entitled to cancel the order at any time before delivery or performance of our obligations to you or the expiry of the Cancellation Period in clause 13.2 whichever is later.

8. Payment

- 8.1. Payment can be made by any major prepay, credit or debit card or through an electronic payment account as explained on the order form.
- 8.2. By placing an order, you consent to payment being charged to your prepay/debit/credit card account or electronic payment account as provided on the order form.
- 8.3. Payment will be debited and cleared from your account before the dispatch of the Goods or provision of the Service to you.
- 8.4. When you pay for your order by card, we carry out certain checks which include obtaining authorisation from your card issuer to ensure you have adequate funds and for security reasons. This may involve validating your name, address and other personal information supplied by you during the order process against appropriate third party databases including the card issuer, registered credit reference agencies and fraud prevention agencies.
- 8.5. By accepting these Conditions you:
 - 8.5.1. Undertake that all the details you provide to us for the purpose of purchasing the Goods and Services are correct and that the payment card you are using is your own and that there are sufficient funds to cover the cost of the Goods and Services ordered
 - 8.5.2. Undertake that any and all Goods and Services ordered by you are for your own private or domestic use only and not for resale
 - 8.5.3. Authorise us to transmit the payment and delivery information provided by you during the order process (included any updated information) for the purpose of obtaining authorisation from your card issuer to ensure you have adequate funds, to authenticate your identity, to validate your payment card and for other security reasons, such as fraud prevention
- 8.6. We shall contact you should any problems occur with the authorisation of your card.
- 8.7. We will take all reasonable care, in so far as it is in our power to do so, to keep the details of your order and payment secure, but in the absence of negligence on our part, we cannot be held liable for any loss you may suffer if a third party procures unauthorised access to any data you provide when accessing or ordering from our Website.

9. Order process and formation of a contract

- 9.1. All orders are subject to acceptance and availability. If any Goods and Services ordered are not available, you will be notified by email and you will have the option either to wait until the item is available or to cancel your order. It is your responsibility to provide us with a valid email address so that we can contact you if necessary.
- 9.2. Any order placed by you constitutes an offer to purchase the Goods and Services from us.
- 9.3. All such offers received from you are subject to acceptance by us and we reserve the right to refuse any order placed by you at any time prior to acceptance, without providing an explanation.
- 9.4. You shall be responsible for ensuring the accuracy of the details provided by you during the order process and we will not accept an order unless all details requested from you have been entered correctly.
- 9.5. You agree that if we contact you to acknowledge receipt of your order such communication shall not amount to our acceptance of your offer to purchase the Goods and Services ordered by you from the Website.
- 9.6. A contract between you and us (the 'Contract') incorporating these Conditions will only subsist after we have debited your payment card and have confirmed that we have dispatched the Goods and/or shall be providing the requested Service We will send you an email to confirm this (a 'Confirmation Notice'). The Confirmation Notice will amount to an acceptance of your offer to purchase from us. The Contract will be formed when we send you the Confirmation Notice (whether or not you receive it).
- 9.7. The Contract will relate only to the Goods and Services stated in the Confirmation Notice. We will not be obliged to supply any other Goods and Services which may have been part of your order until we have sent you a separate Confirmation Notice relating to it.
- 9.8. You must check that the details contained in the Confirmation Notice are correct and you should print out and keep a copy of it.

- 9.9. You will be subject to the version of our policies and Conditions in force at the time that you order the Goods and Services from us, unless:
- 9.9.1. Any change to those policies or these Conditions is required to be made by law or governmental authority
 - 9.9.2. We notify you of any change to our policies or these Conditions before we send you the Confirmation Notice, in which case, we are entitled to assume that you have accepted it, unless we receive written notification from you to the contrary within seven calendar days of receipt of the Confirmation Notice

10. Delivery

- 10.1. The Goods will be delivered to you at the address you provided during the order process which may be an address other than the billing address, but please note that extra documentation may be needed to comply with such orders.
- 10.2. We employ professional carriers. Nevertheless, you must examine the Goods on arrival. If you are asked for your signature on delivery, you must examine the Goods before signing for them.
- 10.3. Any dates quoted for delivery of the Goods are approximate only. If no date is specified then it will take place within 30 days of the date of the Confirmation Notice, unless there are exceptional circumstances.
- 10.4. We will not be liable for any delay in delivering the Goods, however caused.
- 10.5. The Goods may be provided in instalments.
- 10.6. For Christmas deliveries, we recommend that you check our Website for the last date of delivery. We will endeavour to dispatch all Goods that are in stock within 24 hours. However, we cannot guarantee delivery by 24th December.

11. Performance of Services

- 11.1. The Services will be performed at the address or by the means specified in the Confirmation Notice.
- 11.2. The Services will be performed within a reasonable time from the date of the Confirmation Notice.
- 11.3. We will not be liable for any delay in performing the Services, however caused.

12. Risk and title

- 12.1. The Goods will be at your risk from the time of delivery.
- 12.2. Ownership of the Goods will only pass to you when we receive full payment of all sums due in respect of them including the cost of delivery (in the case of goods).

13. Cancelling your Contract and returns

13.1. Cancelling before receiving a Confirmation Notice

- 13.1.1. You may cancel your order for the Goods and Services at any time prior to receiving a Confirmation Notice from us by notifying us of your decision to cancel.
- 13.1.2. You may notify us by sending us an email to info@takeawaysoftware.com or a letter to 1b Almoners Lane, Peterborough, Cambridgeshire, PE3 9EH quoting your name, address, the name or a description of the Goods and Services and your order reference number.

13.2. Cancellation after receiving a Confirmation Notice

- 13.2.1. You may cancel this Contract at any time before the expiry of 30 calendar days after the day you received the Goods (the 'Cancellation Period') by notifying us of your decision to cancel.
- 13.2.2. If you wish us to begin to supply the Services before the expiry of the Cancellation Period in clause 13.2.1 you must request us to do this.
- 13.2.3. You may notify us of your decision to cancel by sending us by email to info@takeawaysoftware.com or by post to 1b Almoners Lane, Peterborough, Cambridgeshire, PE3 9EH

- 13.2.3.1. the fully completed cancellation form found on the Website, or
 - 13.2.3.2. a statement of your name, address, the name or a description of the Goods and Services and your order reference number.
- 13.2.4. If you cancel this Contract after we have begun the supply of the Services in accordance with your request, you must pay us for the Services we supplied to you before we received notice of your cancellation.

Return of Goods

- 13.2.5. Upon receiving notice of your cancellation, we will contact you and provide details of where you must return the Goods and other relevant instructions. You must then return the Goods to us without delay and at the latest within 14 days of notifying us of your cancellation.
- 13.2.6. You must return the Goods at your own risk and at your own cost unless we offer to pay the cost of return. We reserve the right, at our option, to collect the Goods from you. If we wish to collect the Goods we will notify you of when we will collect them. We may charge you for the cost of collecting the Goods and may deduct this from any sum owed by us to you.
- 13.2.7. You must return the Goods to us in the same condition in which you received them with the original packaging and the original invoice.
- 13.2.8. If the value of the Goods is reduced as a result of your handling of them beyond what is necessary to determine the nature, characteristics or functioning of the Goods, we will be entitled to claim this reduction in value from you and to deduct it from any money which you have paid us.

13.3. Refunds on cancellation

- 13.3.1. So long as you are entitled to cancel and have complied with your obligations under clause 13.2, we will refund you the balance of the price you paid to us after deducting:
- 13.3.1.1. the value of the Services we supplied before we received your cancellation notice;
 - 13.3.1.2. any reduction in the value of the Goods; and
 - 13.3.1.3. any cost to us of collecting the Goods.
- 13.3.2. Unless we have agreed to collect the Goods from you, we will refund you the sum in clause 13.3.1 within 14 days after the earlier of:
- 13.3.2.1. the day on which we receive the Goods back from you, or
 - 13.3.2.2. the day on which you supply evidence to us that you have sent the Goods back to us.
- 13.3.3. If we have agreed to collect the Goods from you, we will refund you the sum in clause 13.3.1 within 14 days of our receipt of your cancellation notice.

13.4. Exception to the right to cancel

- 13.4.1. You will not have a right to cancel in the following situations:
- 13.4.1.1. The Contract is for goods which are bespoke or have been personalised or which may deteriorate (such as food)
 - 13.4.1.2. The Contract is for goods and/or services the price of which is dependent on fluctuations in the financial market which cannot be controlled by us
 - 13.4.1.3. The Contract is for the supply of alcoholic beverages where their value is dependent on fluctuations in the market which cannot be controlled by us, we have agreed the price and we can only deliver after 30 days
 - 13.4.1.4. You have specifically requested a visit from us to carry out urgent repairs or maintenance
 - 13.4.1.5. The Contract is for the sale of land or financial services
 - 13.4.1.6. The Contract is for rental of accommodation for residential purposes

- 13.4.1.7. The Contract is for construction or conversion of buildings
- 13.4.1.8. The Contract is for the sale of goods and services by public auction which bidders may attend in person
- 13.4.1.9. The Contract is for gaming, betting and lottery services
- 13.4.1.10. The Contract is for accommodation, transport of goods, vehicle rental services, catering or services related to leisure activities where there is a specific date or period for performance
- 13.4.1.11. The Contract is for the supply of sealed audio or video recordings and computer software and they have become unsealed after delivery
- 13.4.1.12. The Contract is for the supply of sealed goods which are not suitable for return due to health protection or hygiene reasons and they have become unsealed after delivery
- 13.4.1.13. The Contract is for the supply of newspapers, magazines and other periodicals, except for subscription contracts
- 13.4.1.14. The Contract is for the supply of goods which have become mixed inseparably with other items after delivery

14. Delivery by instalments

- 14.1. The Goods may be sent to you in instalments. You may cancel the outstanding part of your order and receive a refund of
 - 14.1.1. the balance of the price you paid to us in respect of the outstanding part of your order.

15. Complaints

If you have a comment, concern or complaint about any Goods and Services you have purchased from us, please contact us via email at info@takeawaysoftware.com or by post at 1b Almoners Lane, Peterborough, Cambridgeshire, PE3 9EH.

16. Intellectual property

- 16.1. Goods and Services sold or licensed by us and Website content may be subject to copyright, trade mark or other intellectual property rights in favour of third parties. We acknowledge those rights.
- 16.2. The content of the Website is protected by copyright (including design copyrights), trade marks, patent, database and other intellectual property rights and similar proprietary rights which include (without limitation), all rights in materials, works, techniques, computer programs, source codes, data, technical information, trading business brand names, goodwill, service marks, utility models, semi-conductor topography rights, the style or presentation of the goods or services, creations, inventions or improvements upon or additions to an invention, confidential information, know-how and any research effort relating to Takeaway Software moral rights and any similar rights in any country (whether registered or unregistered and including applications for and the right to apply for them in any part of the world) and you acknowledge that the intellectual property rights in the material and content supplied as part of the Website shall remain with us or our licensors.
- 16.3. You may download or copy the content and other downloadable items displayed on the Website subject to the condition that the material may only be used for personal non-commercial purposes. Copying or storing the contents of the Website for other than personal use is expressly prohibited.
- 16.4. You may retrieve and display the content of the Website on a computer screen, store such content in electronic form on disk (but not any server or other storage device connected to a network) or print one copy of such content for your own personal, non-commercial use, provided you keep intact all and any copyright and proprietary notices. You may not otherwise reproduce, modify, copy or distribute or use for commercial purposes any of the materials or content on the Website.
- 16.5. You acknowledge that any other use of the material and content of this Website is strictly prohibited and you agree not to (and agree not to assist or facilitate any third party to) copy, reproduce, transmit, publish, display, distribute, commercially exploit or create derivative works from such material and content.

16.6. No licence is granted to you in these Conditions to use any of our trade marks or those of our affiliated companies.

17. Website use

You are permitted to use the Website and the material contained in it only as expressly authorised by us under our terms of use.

18. Liability and indemnity

18.1. Notwithstanding any other provision in the Conditions, nothing will affect or limit your statutory rights; or will exclude or limit our liability for:

18.1.1. Death or personal injury resulting from our negligence

18.1.2. Fraud or fraudulent misrepresentation

18.1.3. Action pursuant to section 2(3) of the Consumer Protection Act 1987

18.1.4. Any matter for which it would be unlawful for us to exclude or attempt to exclude our liability

18.2. The Website is provided on an 'as is' and 'as available' basis without any representation or endorsement made and we make no warranties or guarantees, whether express or implied, statutory or otherwise (unless otherwise expressly stated in these Conditions or required by law) in relation to the information, materials, content or services found or offered on the Website for any particular purpose or any transaction that may be conducted on or through the Website including but not limited to implied warranties of non-infringement, compatibility, timeliness, performance, security, accuracy, condition or completeness, or any implied warranty arising from course of dealing or usage or trade custom.

18.3. We will not be liable if the Website is unavailable at any time.

18.4. We make no representation or warranty of any kind express or implied statutory or otherwise regarding the availability of the Website or that it will be timely or error-free, that defects will be corrected, or that the Website or the server that makes it available are free of viruses or bugs.

18.5. We will not be responsible or liable to you for any loss of content or material uploaded or transmitted through the Website and we accept no liability of any kind for any loss or damage resulting from action taken in reliance on material or information contained on the Website.

18.6. We cannot guarantee and cannot be responsible for the security or privacy of the Website and any information provided by you. You must bear the risk associated with the use of the internet. In particular, we will not be liable for any damage or loss caused by a distributed denial-of-service attack, any viruses, trojans, worms, logic bombs, keystroke loggers, spyware, adware or other material which is malicious or technologically harmful that may infect your computer, peripheral computer equipment, computer programs, data or other proprietary material as a result of your use of the Website or as a result of your downloading, streaming or otherwise accessing any Digital Content supplied on the Website or from any website linked to it.

18.7. We will use all reasonable endeavours to carry out our obligations within a reasonable period of time but will not be liable to you for any loss, costs or expenses arising directly or indirectly from any delays in doing so.

18.8. We will not be liable, in contract or tort (including, without limitation, negligence), or in respect of pre-contract or other representations (other than fraudulent misrepresentations) or otherwise for:

18.8.1. any economic losses (including without limitation loss of revenues, profits, contracts, business or anticipated savings and any loss related to your business, the extent of which was not foreseeable at the time of the contract); or

18.8.2. any loss of goodwill or reputation; or

18.8.3. any special losses or losses not normally reasonably foreseeable at the time of the contract; or

18.8.4. any loss of data; or

18.8.5. wasted management or office time; or

- 18.8.6. any other loss or damage of any kind suffered or incurred arising out of or in connection with the provision of any matter under these Conditions and/or the Contract and/or the use of this Website or any aspect related to your agreement to purchase the Goods and Services even if such losses are foreseeable or result from a deliberate breach of these Conditions by us that would entitle you to terminate the Contract between us or as a result of any action we have taken in response to your breach of these Conditions. Without prejudice to the terms of this clause and in the event that we are unable to rely upon it, our liability for all and any losses you suffer as a result of us breaking the Contract, whether or not deliberate, including those listed in clauses 18.8.1 to 18.8.6, is strictly limited to the total of the price of and any delivery charges you paid for the Goods and Services.
- 18.9. You agree to fully indemnify, defend and hold us, and our officers, directors, employees and suppliers, harmless immediately on demand, from and against all claims, including but not limited to losses (including loss of profit, revenue, goodwill or reputation), costs and expenses, including reasonable administrative and legal costs, arising out of any breach of these Conditions by you, or any other liabilities arising out of your use of this Website or any other person accessing the Website using your personal information with your authority.
- 18.10. This clause does not affect your statutory rights as a consumer, nor does it affect your contractual cancellation rights.

19. Termination

- 19.1. We reserve the right to terminate an agreement formed with you pursuant to clause 9 and to suspend or terminate your access to the Website immediately and without notice to you if:
- 19.1.1. You fail to make any payment to us when due
 - 19.1.2. You breach these Conditions (repeatedly or otherwise)
 - 19.1.3. You are impersonating any other person or entity
 - 19.1.4. When requested by us to do so, you fail to provide us within a reasonable time with sufficient information to enable us to determine the accuracy and validity of any information supplied by you, or your identity
 - 19.1.5. We suspect you have engaged, or are about to engage, or have in anyway been involved, in fraudulent or illegal activity on the Website

20. Events outside our control

- 20.1. Except for our obligation under clause 20.6, we shall have no liability for delays or failures in delivery or performance of our obligations to you resulting from any act, event, omission, failure or accident outside of our control ('Event Outside Our Control'), which, without limitation, includes:
- 20.1.1. A strike, lock-out or other industrial action
 - 20.1.2. Shortages of labour, fuel, power, raw materials where we could not take reasonable action to obtain alternative supplies in time to perform this contract
 - 20.1.3. Late, defective performance or non-performance by suppliers where we could not by taking reasonable action obtain alternative supplies in time to perform this contract
 - 20.1.4. Private or public telecommunication, computer network failures or breakdown of equipment
 - 20.1.5. Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war
 - 20.1.6. Fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster or extreme weather conditions
 - 20.1.7. Impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport
 - 20.1.8. Acts, decrees, legislation, regulations or restrictions of any government
 - 20.1.9. Other events, beyond our reasonable control
- 20.2. Our performance will be deemed to be suspended for the period that the Event Outside Our Control continues, and we will have an extension of time for performance for the duration of that

period. We will use reasonable endeavours to minimise any delay caused by the Event Outside Our Control or to find a solution by which our obligations may be performed despite this event. We shall promptly notify you of any Event Outside Our Control giving details of it and (where possible) the extent and likely duration of any delay.

- 20.3. Where an Event Outside Our Control prevents us from performing our obligations to you within 25 days from the date we sent you the Confirmation Notice, either you or we may terminate the Contract by giving 5 days written notice to the other.
- 20.4. The Contract will terminate 5 days after service of this written notice of termination unless you notify us in writing before the expiry of those 5 days that you will extend the time for performance of this Contract to a specified date.
- 20.5. If the Event Outside Our Control prevents us from performing our obligations to you by the date to which you specified, the contract will terminate on the date you specified.
- 20.6. If the Contract is terminated due to an Event Outside Our Control, we will refund you any money you have paid to us under the Contract.

21. Privacy policy

- 21.1. In order to monitor and improve customer service, we sometimes record telephone calls.
- 21.2. We shall be entitled to process your data in accordance with the terms of our Privacy Policy. Please view this document for further information. All information provided by you will be treated securely and in accordance with the Data Protection Act 1998 (as amended).
- 21.3. You can find full details of our Privacy Policy on the Website.

22. Third party rights

Except for our affiliates, directors, employees or representatives, a person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract but this does not affect any right or remedy of a third party that exists or is available apart from that Act.

23. External links

- 23.1. To provide increased value and convenience to our users, we may provide links to other websites or resources for you to access at your sole discretion and risk. You acknowledge and agree that, as you have chosen to enter the linked website we are not responsible for the availability of such external sites or resources, and do not review or endorse and are not responsible or liable in any way, whether directly or indirectly, for:
 - 23.1.1. The privacy practices of such websites
 - 23.1.2. The content of such websites, including (without limitation) any advertising, content, products, goods or other materials or services on or available from such websites or resources
 - 23.1.3. The use which others make of these websites; or
 - 23.1.4. Any damage, loss or offence caused or alleged to be caused to you, arising from or in connection with the use of or reliance upon any such advertising, content, products, goods, materials or services available on and/or purchased by you from such external websites or resources

24. Linking to the Website

- 24.1. You must not create a link to the Website from another website, document or any other source without first obtaining our prior written consent.
- 24.2. Any agreed link must be:
 - 24.2.1. To the Website's homepage
 - 24.2.2. Established from a website or document that is owned by you and does not contain content that is offensive, controversial, infringes any intellectual property rights or other rights of any other person or does not comply in any way with the law in the UK and the law in any country from which it is hosted

- 24.2.3. Provided in such a way that is fair and legal and does not damage our reputation or take advantage of it
- 24.2.4. Established in such a way that does not suggest any form of association, approval or endorsement on our part where none exists
- 24.3. We have no obligation to inform you if the address of the Website home page changes and it is your responsibility to ensure that any link you provide to our homepage is at all times accurate.
- 24.4. We reserve the right to withdraw our consent without notice and without providing any reasons for withdrawal. Upon receiving such notice you must immediately remove the link and inform us once this has been done.

25. Notices

- 25.1. All notices given by you to us must be given to us at 1b Almoners Lane, Peterborough, Cambridgeshire, PE3 9EH or by using info@takeawaysoftware.com. We may give notice as described in clause 3
- 25.2. Notice will be deemed received and properly served immediately when posted on our Website, 24 hours after an email is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.

26. Entire agreement

- 26.1. The Contract represents the entire agreement between us in relation to the subject matter of the Contract and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.
- 26.2. We each acknowledge that, in entering into a Contract, neither of us has relied on any express or implied representation, undertaking or promise given by the other from anything said or written in any negotiations between us prior to such Contract except as has been expressly incorporated in such Contract.
- 26.3. Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date of any Contract (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these Conditions.

27. General

- 27.1. We reserve the right to change the domain address of this Website and any services, products, product prices, product specifications and availability at any time.
- 27.2. All prices and descriptions supersede all previous publications. All product descriptions are approximate.
- 27.3. Every effort is made to keep information regarding stock availability on the Website up to date. However, we do not guarantee that this is the case, or that stock will always be available.
- 27.4. If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provision in question will not be affected.
- 27.5. All Contracts are concluded and available in English only.
- 27.6. If we fail, at any time during the term of a Contract, to insist upon strict performance of any of your obligations under it or any of these terms and conditions, or if we fail to exercise any of the rights or remedies to which we are entitled under the Contract, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with your obligations.
- 27.7. A waiver by us of any default shall not constitute a waiver of any subsequent default.
- 27.8. No waiver by us of any of these Conditions or of any other term of a Contract shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with clause 3
- 27.9. Any Contract between you and us is binding on you and us and on our respective successors and assigns. You may not transfer, assign, charge or otherwise dispose of the Contract, or any of your

rights or obligations arising under it, without our prior written consent. We may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.

28. Governing law and jurisdiction

- 28.1. The Website is controlled and operated in the United Kingdom.
- 28.2. Every purchase you make shall be deemed performed in England and Wales.
- 28.3. The Conditions and any Contract brought into being as a result of usage of this Website will be governed by the laws of England and Wales and you irrevocably agree to submit to the exclusive jurisdiction of the courts of England and Wales.

Cancellation Form

Date:

To: Takeaway Software

1b Almoners Lane, Peterborough, Cambridgeshire, PE3 9EH

Email address: info@takeawaysoftware.com

I/We[*] hereby give you notice that I/We[*] cancel my/our[*] contract for:

Order number:

Ordered on:

Received on:

Name(s) of consumer(s):

Address(es) of consumer(s):

Signature of consumer(s):

[*] Delete as appropriate

Website - terms and conditions of use

Please read these terms and conditions carefully as they contain important information about your rights and obligations when using this website (the 'Website') and in particular clause 10.3

The Website is owned and operated by Takeaway Software ('we'/us'/our'), a limited company registered in England and Wales under company number: 09267729 having our registered office at 1b Almoners Lane, Peterborough, Cambridgeshire, PE3 9EH.

The term 'you' refers to the user or viewer of our Website.

By browsing on or using the Website you are agreeing to comply with and be bound by these terms and conditions which, together with our privacy policy, governs our relationship with you regarding the use of our Website.

1. Access

- 1.1. You will be able to access parts of the Website without having to register any details with us. However, from time to time certain areas of this Website may be accessible only if you are a registered user.
- 1.2. You are responsible for making all arrangements necessary for you to have access to our Website. You are also responsible for ensuring that all persons who access our Website through your internet connection are aware of these terms, and that they comply with them.
- 1.3. We make reasonable efforts to ensure that this Website is available to view and use 24 hours a day throughout each year however, this is not guaranteed. The Website may be temporarily unavailable at any time because of: server or systems failure or other technical issues; reasons that are beyond our control; required updating, maintenance or repair.
- 1.4. Where possible we will try to give you advance warning of maintenance issues but shall not be obliged to do so.

2. Registering on this Website

- 2.1. When registering on the Website you must choose a username and password. You are responsible for all actions taken under your chosen username and password.
- 2.2. By registering on the Website you undertake:
 - 2.2.1. That all the details you provide to us for the purpose of registering on the Website are true, accurate, current and complete in all respects
 - 2.2.2. You will notify us immediately of any changes to the information provided on registration
 - 2.2.3. You are over 18 or if under 18 you have a parent or guardian's permission to register with the Website in conjunction with and under their supervision
 - 2.2.4. To only use the Website using your own username and password
 - 2.2.5. To make every effort to keep your password safe
 - 2.2.6. Not to disclose your password to anyone
 - 2.2.7. To change your password immediately upon discovering that it has been compromised
 - 2.2.8. To neither transfer or sell your username or password to anyone, nor permit, either directly or indirectly, anyone other than you to use them
- 2.3. You authorise us to transmit your name, address and other personal information supplied by you (included updated information) to obtain information from third parties about you, including, but not limited to, credit reports and so that we may authenticate your identity.

3. Eligibility to purchase from the Website

- 3.1. To be eligible to purchase the Goods and Services on this Website and lawfully enter into and form contracts with us, you must:
 - 3.1.1. Be 18 years of age or over
 - 3.1.2. Be legally capable of entering into a binding contract
 - 3.1.3. Provide full details of an address in the United Kingdom for delivery of goods and, if purchasing services, an address in the United Kingdom or the European Economic Area (if you reside in the EEA)
- 3.2. If you are under 18, you may only use the Website in conjunction with, and under the supervision of, a parent or guardian. If you do not qualify, you must not use our Website.

4. Intellectual property

- 4.1. The content of the Website is protected by copyright (including design copyrights), trade marks, patent, database and other intellectual property rights and similar proprietary rights which include, (without limitation), all rights in materials, works, techniques, computer programs, source codes, data, technical information, trading business brand names, goodwill, service marks utility models, semi-conductor topography rights, the style or presentation of the goods or services, creations, inventions or improvements upon or additions to an invention, confidential information, know-how and any research effort relating to Takeaway Software moral rights and any similar rights in any country (whether registered or unregistered and including applications for and the right to apply for them in any part of the world).
- 4.2. You acknowledge that the intellectual property rights in the material and content supplied as part of the Website shall remain with us or our licensors.
- 4.3. You may download or copy the content and other downloadable items displayed on the Website subject to the condition that the material may only be used for personal non-commercial purposes. Copying or storing the contents of the Website for other than personal use is expressly prohibited.
- 4.4. You may retrieve and display the content of the Website on a computer screen, store such content in electronic form on disk (but not any server or other storage device connected to a network) or print one copy of such content for your own personal, non-commercial use, provided you keep intact all and any copyright and proprietary notices.
- 4.5. You may not otherwise reproduce, modify, copy or distribute or use for commercial purposes any of the materials or content on the Website.
- 4.6. You acknowledge that any other use of the material and content of this Website is strictly prohibited and you agree not to (and agree not to assist or facilitate any third party to) copy, reproduce, transmit, publish, display, distribute, commercially exploit or create derivative works from such material and content.
- 4.7. No licence is granted to you to use any of our trade marks or those of our affiliated companies.

5. Disclaimer

- 5.1. It shall be your responsibility to ensure that any products, services or information available through the Website meet your specific requirements.
- 5.2. We will not be liable to you if the Website is unavailable at any time.
- 5.3. We attempt to ensure that the information available on the Website at any time is accurate. However, we do not guarantee the accuracy or completeness of material on this Website. We use all reasonable endeavours to correct errors and omissions as quickly as practicable after becoming aware or being notified of them. We make no commitment to ensure that such material is correct or up to date.
- 5.4. All drawings, images, descriptive matter and specifications on the Website are for the sole purpose of giving an approximate description for your general information only and should be used only as a guide.
- 5.5. Any prices and offers are only valid at the time they are published on the Website.
- 5.6. All prices and descriptions supersede all previous publications.

- 5.7. Every effort is made to keep information regarding stock availability on the Website up to date. However, we do not guarantee that this is the case, or that stock will always be available.
- 5.8. The Website is provided on an 'as is' and 'as available' basis without any representation or endorsement made and we make no warranties or guarantees, whether express or implied, statutory or otherwise (unless otherwise expressly stated in these terms and conditions or required by law) in relation to the information, materials, content or services found or offered on the Website for any particular purpose or any transaction that may be conducted on or through the Website including but not limited to, implied warranties of non-infringement, compatibility, timeliness, performance, security, accuracy, condition or completeness, or any implied warranty arising from course of dealing or usage or trade custom.
- 5.9. We make no representation or warranty of any kind express or implied statutory or otherwise regarding the availability of the Website or that it will be timely or error-free, that defects will be corrected, or that the Website or the server that makes it available are free of viruses or bugs.
- 5.10. We will not be responsible or liable to you for any loss of content or material uploaded or transmitted through the Website and we accept no liability of any kind for any loss or damage from action taken in reliance on material or information contained on the Website.
- 5.11. We cannot guarantee and cannot be responsible for the security or privacy of the Website and any information provided by you.
- 5.12. You must bear the risk associated with the use of the internet. In particular, we will not be liable for any damage or loss caused by a distributed denial-of-service attack, any viruses, trojans, worms, logic bombs, keystroke loggers, spyware, adware or other material which is malicious or technologically harmful that may infect your computer, peripheral computer equipment, computer programs, data or other proprietary material as a result of your use of the Website or you downloading any material posted or sold on the Website or from any website linked to it.
- 5.13. We reserve the right to disclose such information to law enforcement authorities as we reasonably feel is necessary should you breach this agreement.

6. Use of the Website

- 6.1. You are permitted to use the Website and the material contained in it only as expressly authorised by us and in accordance with these terms and conditions, as may be amended from time to time without notice to you.
- 6.2. We provide access and use of the Website on the basis that we exclude all representations, warranties and conditions to the maximum extent permitted by law.
- 6.3. We reserve the right to:
 - 6.3.1. Make changes to the information or materials on this Website at any time and without notice to you.
 - 6.3.2. Temporarily or permanently change, suspend or discontinue any aspect of the Website, including the availability of any features, information, database or content or restrict access to parts of or the entire Website without notice or liability to you or any third party.
 - 6.3.3. Refuse to post material on the Website or to remove material already posted on the Website
- 6.4. You may not use the Website for any of the following purposes:
 - 6.4.1. Disseminating any unlawful, harassing, libellous, abusive, threatening, harmful, vulgar, obscene, or otherwise objectionable material
 - 6.4.2. Transmitting material that encourages conduct that constitutes a criminal offence, results in civil liability or otherwise
 - 6.4.3. Breaching any applicable local, national or international laws, regulations or code of practice
 - 6.4.4. Gaining unauthorised access to other computer systems
 - 6.4.5. Interfering with any other person's use or enjoyment of the Website
 - 6.4.6. Breaching any laws concerning the use of public telecommunications networks

- 6.4.7. Interfering with, disrupting or damaging networks or websites connected to the Website
 - 6.4.8. Utilisation of data mining, robots or similar data gathering and extraction tools to extract (whether once or many times) for re-utilisation of any substantial parts of the Website
 - 6.4.9. To transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation
 - 6.4.10. To create and/or publish your own database that features all or substantial parts of the Website
 - 6.4.11. Making, transmitting or storing electronic copies of materials protected by copyright without the prior permission of the owner
- 6.5. In addition, you must not:
- 6.5.1. Knowingly introduce viruses, trojans, worms, logic bombs, keystroke loggers, spyware, adware or other material which is malicious or technologically harmful to the Website
 - 6.5.2. Attempt to gain unauthorised access to the Website, the server on which the Website is stored or any server, computer or database connected to it
 - 6.5.3. Attack the Website via a denial-of-service attack or a distributed denial-of service attack
 - 6.5.4. Damage or disrupt any part of the Website, any equipment or network on which the Website is stored or any software used for the provision of the Website
- 6.6. A breach of this clause may be a criminal offence under the Computer Misuse Act 1990. We may report any such breach to the relevant law enforcement authorities and disclose your identity to them. In the event of such a breach, your right to use the Website will cease immediately.

7. Suspending or terminating your access

- 7.1. We reserve the right to terminate or suspend your access to the Website immediately and without notice to you if:
- 7.1.1. You fail to make any payment to us when due
 - 7.1.2. You breach the terms of these terms and conditions (repeatedly or otherwise)
 - 7.1.3. You are impersonating any other person or entity
 - 7.1.4. When requested by us to do so, you fail to provide us within a reasonable time with sufficient information to enable us to determine the accuracy and validity of any information supplied by you, or your identity
 - 7.1.5. We suspect you have engaged, or about to engage, or have in anyway been involved, in fraudulent or illegal activity on the Website

8. Linking to the Website

- 8.1. You must not create a link to the Website from another website, document or any other source without first obtaining our prior written consent.
- 8.2. Any agreed link must be:
- 8.2.1. To the Website's homepage
 - 8.2.2. Established from a website or document that is owned by you and does not contain content that is offensive, controversial, infringes any intellectual property rights or other rights of any other person or does not comply in any way with the law in the UK and the law in any country from which they are hosted
 - 8.2.3. Provided in such a way that is fair and legal and does not damage our reputation or take advantage of it
 - 8.2.4. Established in such a way that does not suggest any form of association, approval or endorsement on our part where none exists
- 8.3. We have no obligation to inform you if the address of the Website home page changes and it is your responsibility to ensure that any link you provide to our homepage is at all times accurate.

- 8.4. We reserve the right to withdraw our consent without notice and without providing any reasons for withdrawal. Upon receiving such notice you must immediately remove the link and inform us once this has been done.

9. External links

- 9.1. To provide increased value and convenience to our users, we may provide links to other websites or resources for you to access at your sole discretion and risk. You acknowledge and agree that, as you have chosen to enter the linked website we are not responsible for the availability of such external sites or resources, and do not review or endorse and are not responsible or liable in any way, whether directly or indirectly, for:
- 9.1.1. The privacy practices of such websites
 - 9.1.2. The content of such websites, including (without limitation) any advertising, content, products, goods or other materials or services on or available from such websites or resources
 - 9.1.3. The use which others make of these websites
 - 9.1.4. Any damage, loss or offence caused or alleged to be caused to you, arising from or in connection with the use of or reliance upon any such advertising, content, products, goods, materials or services available on and/or purchased by you from such external websites or resources.

10. Limitation of liability and indemnity

- 10.1. Notwithstanding any other provision in these terms and conditions, nothing will affect or limit your statutory rights; or will exclude or limit our liability for:
- 10.1.1. Death or personal injury resulting from our negligence
 - 10.1.2. Fraud or fraudulent misrepresentation
 - 10.1.3. Action pursuant to section 2(3) of the Consumer Protection Act 1987
 - 10.1.4. Any matter for which it would be unlawful for us to exclude or attempt to exclude our liability
- 10.2. We will not be liable, in contract or tort (including, without limitation, negligence), or in respect of pre-contract or other representations (other than fraudulent or negligent misrepresentations) or otherwise for the below mentioned losses which you have suffered or incurred arising out of or in connection with the provision of any matter in these terms and conditions even if such losses are foreseeable or result from a deliberate breach by us or as a result of any action we have taken in response to your breach:
- 10.2.1. Any economic losses (including without limitation loss of revenues, profits, contracts, business or anticipated savings)
 - 10.2.2. Any loss of goodwill or reputation; or
 - 10.2.3. Any special or indirect losses; or
 - 10.2.4. Any loss of data
 - 10.2.5. Wasted management or office time
 - 10.2.6. Any other loss or damage of any kind
- 10.3. You agree to fully indemnify, defend and hold us, and our officers, directors, employees and suppliers, harmless immediately on demand, from and against all claims, including but not limited to losses (including loss of profit, revenue, goodwill or reputation), costs and expenses, including reasonable administrative and legal costs, arising out of any breach of these terms and conditions by you, or any other liabilities arising out of your use of this Website or any other person accessing the Website using your personal information with your authority.
- 10.4. This clause does not affect your statutory rights as a consumer.

11. General

- 11.1. We reserve the right to change the domain address of this Website and any services, products, product prices, product specifications and availability at any time.

- 11.2. If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions in these terms and conditions and the remainder of the provision in question will not be affected.
- 11.3. All Contracts are concluded and available in English only.
- 11.4. If we fail, at any time to insist upon strict performance of any of your obligations under these terms and conditions, or if we fail to exercise any of the rights or remedies to which we are entitled under these terms and conditions, it shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with your obligations.
- 11.5. A waiver by us of any default shall not constitute a waiver of any subsequent default.
- 11.6. No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

12. Governing law and jurisdiction

- 12.1. The Website is controlled and operated in the United Kingdom.
- 12.2. These terms and conditions will be governed by the laws of England and Wales and you irrevocably agree to submit to the exclusive jurisdiction of the courts of England and Wales.

What to do with your documents

This following pages are to help you - you should separate them from the previous pages.

Terms and conditions

The first document is the terms and conditions for supplying goods and services to consumers. It should be uploaded onto and used in conjunction with your website. On your website you should describe the goods and services that you are supplying and state the prices and other specific details.

Before your customers place their order and click on your 'Pay Now' button, there should be a link to these terms and conditions. Alternatively your customer should have to scroll through them. There should then be an 'I accept' checkbox referring to these terms and conditions. Your website should not allow your customer to proceed with the order unless they have ticked the 'I accept' checkbox.

There is other **'pre-contract information'** that you must provide to the consumer before they make the contract - we have summarised this in the checklist on the next page. We recommend that you provide this information on your website and in the order confirmation email.

After you have decided to accept the order, send the consumer a **confirmation notice** on a 'durable medium' e.g. by email or post. If you have not yet provided the pre-contract information on a durable medium, you must include it in your confirmation notice. You must send this confirmation notice to the consumer within a reasonable time after the contract is made, and before delivering the goods or starting performance of the services.

Cancellation form

The second document is the model cancellation form that you must provide to your customer along with your confirmation of the order (confirmation notice). You could provide the cancellation form by uploading it onto your website and providing a link to it in the confirmation notice. Alternatively, you could provide it as an email attachment or enclose it in a confirmation notice sent by post. The customer does not have to use it, and may cancel by clearly indicating to you that they wish to do so. If the customer completes and submits the cancellation form to you online, you must send them an **acknowledgement of receipt** on a durable medium without delay.

Website terms and conditions of use

The third document is the 'Website terms and conditions of use'. You should upload this to your website and create a link on your home page to it. You might want to have the customer acknowledge that they have accepted these terms, but this is not essential. You should make the link to them on your home page prominent enough to be noticed. These terms and conditions just relate to use of your website and not to your terms of supplying goods and services.

Checklist of pre-contract information to be supplied to your customer

Below is a summary of all the **'pre-contract information'** that you must provide to the consumer before they make the contract (i.e. before they place the order). Not everything in the checklist will apply to you, but we recommend that you provide the relevant pieces of information both on your website and in the order confirmation email.

1. Your business name and the geographical address, telephone and fax numbers and e-mail address of your business.
2. The name and geographical address of any trader you are acting on behalf of.
3. A description of the main characteristics of the Goods and Services.
4. The total price, including all taxes.
5. How long prices quoted remain valid.
6. Delivery and any other costs, where appropriate.
7. Arrangements for payment including the means of payment you are accepting.
8. Arrangements for delivering the Goods and performing the Services including the timeframe.
9. Any delivery restrictions.
10. The cost to the customer of communicating with you when it will be more than the basic rate. You are not allowed to charge the consumer premium telephone rates for any helplines you operate in relation to the contract.
11. If the consumer has a right to cancel, the time limit, conditions and procedures involved in exercising the right to cancel. (Consider providing this on your website and a link to that page in an order and/or dispatch confirmation email.)
12. Your complaints handling policy and details of any out-of-court complaints redress.
13. A reminder that you have a duty to supply goods conforming to the contract.
14. Details of any guarantees or after-sales service.
15. The existence and conditions of any deposits or other financial guarantees to be provided by the consumer.
16. Your company registration number.
17. The technical steps that the customer must follow to conclude the contract.
18. A description of the technical means for customers to identify and correct input errors prior to placing an order.
19. Whether or not a copy of the contract will be kept by you and if so, if it can be accessed by the customer.
20. The languages offered for the conclusion of the contract.
21. Details of any professional liability insurance guarantee you may have including the contact details of the insurer or guarantor and the territorial coverage of the insurance or guarantee.

- 22. The main features of the service if these are not apparent from the context.
- 23. If you are providing services and the consumer wants you to start performing the services before the end of the cancellation period, you need to ensure you have a request from them to do so.
- 24. That the consumer will have to pay for services received if they ask you to start performing during the cancellation period and then cancel after you have started.
- 25. Where the goods should be returned.
- 26. The cost of returning the goods if regular post can't be used.

Terms and Conditions

The Buyer should note the provisions of clause 13 (limitation of liability).

1. Definitions

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

Agreement	means the documents comprising an Agreement and includes the Conditions, an Order Acknowledgement and its related Purchase Order for Goods. If there is any inconsistency between the documents comprising an Agreement, they shall have precedence in the order listed herein.
Buyer	means the organisation or person with whom an Agreement is made by the Seller, whether directly or indirectly through an agent or third party who is acting for or instructed by or whose actions are ratified by such organisation or person.
Conditions	means these terms and conditions as amended from time to time in accordance with clause 10 (alterations) and clause 19 (variation).
Goods	means the articles or things, or part of them, described in a Purchase Order overleaf including, without limitation, raw materials, processed materials or fabricated products.
Intellectual Property Rights	means patents, all rights to inventions, prototypes, products, discoveries, techniques or processes, systems, data, information, copyright and related rights, moral rights, trade marks and service marks, trade names, domain names, brand names, rights to goodwill, rights in design, rights in computer software (including source code and object code), database rights, rights in confidential information (including know how and trade secrets) and any other intellectual property rights relating to the Goods in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights owned by the Seller and similar or equivalent rights which subsist or will subsist now or in the future in any part of the world.
Order Acknowledgement	means the Seller's acknowledgement of a Purchase Order for Goods confirming acceptance of that Purchase Order.

Parties	means the Buyer and the Seller.
Purchase Order	means an order for the purchase of Goods submitted to the Seller by the Buyer.
Sales of Goods Act	means the Sales of Goods Act 1979.
Seller	means Takeaway Software Limited.

2. Construction

- 2.1. In these Conditions, the following rules apply:
- 2.1.1. A person includes a natural person, corporate or unincorporated body (whether or not they have separate legal personality).
 - 2.1.2. A reference to a party includes its personal representatives, successors or permitted assigns.
 - 2.1.3. A reference to 'writing' or 'written' includes faxes and emails.
 - 2.1.4. Any reference to a statutory provision is a reference to that provision as modified or re-enacted or both from time to time and to any subordinate legislation made under the statutory provision.
 - 2.1.5. Any phrase introduced by the terms 'including' or 'include' or any similar expression shall not limit the sense of the words preceding those terms.

3. General

- 3.1. The Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions referred to, offered or relied on by the Buyer, whether in the negotiation or at any stage in the dealings between the Parties, including any standard or printed terms tendered by the Buyer, unless the Buyer specifically states in writing, separately from such terms, that it wishes such terms to apply and this has been agreed by the Seller in writing.

4. Orders

- 4.1. Unless verbal or telephone Purchase Orders and any variations to Purchase Orders are confirmed in writing by the Buyer to the Seller, the Seller shall not be responsible for errors or subsequent misunderstandings.
- 4.2. Notwithstanding that the Seller may have given a detailed quotation, no Purchase Order shall be binding on the Seller unless and until it has been accepted in writing by the Seller by means of an Order Acknowledgement.

5. Price and payment

- 5.1. All prices estimated, quoted or invoiced are in Sterling (UK Pounds).
- 5.2. The price of the Goods will be the price stated in the Order Acknowledgement, being, unless otherwise stated by the Seller, the list price of the Company current at the date of the Order Acknowledgement. The Seller's prices are subject to adjustment to take account of any variation in the Seller's costs including (without limitation) variations in wages, the cost of materials, exchange rate fluctuations, alterations of duties and other costs since the date of the Seller's quotation or (if no quotation is issued) the Purchase Order. The Seller accordingly reserves the right to adjust the invoice price by the amount of any increase or decrease in such costs after the price is quoted or the Purchase Order is submitted (as applicable). The invoice so adjusted shall be payable as if the price set out therein were the original Agreement price.
- 5.3. The price is exclusive of VAT, which will be charged at the appropriate rate. The price is also exclusive of transport, packaging, insurance and any other applicable duties or taxes, unless otherwise explicitly agreed.
- 5.4. All invoices of the Seller shall, unless otherwise agreed in writing by the Seller, be paid by the Buyer within 30 days of the date of the Seller's invoice without deduction or withholding and free

of set off or counterclaim. Time for payment shall be of the essence. The Seller shall be entitled to render an invoice for the Goods sold under an Agreement as soon as the Seller has provided an Order Acknowledgement.

- 5.5. The Seller shall be entitled to charge interest on overdue invoices from the date when payment becomes due until the date of payment at the rate of 10.00% per annum above the base rate of TSB.
- 5.6. If the payment of the price or any part thereof is not made by the due date, the Seller shall be entitled to:
 - 5.6.1. require payment in advance of delivery in relation to any Goods not previously delivered;
 - 5.6.2. refuse to make delivery of any undelivered Goods whether ordered under an Agreement or not and without incurring any liability whatsoever to the Buyer for non-delivery or any delay in delivery;
 - 5.6.3. terminate the Agreement.

6. Specification of Goods

- 6.1. No description, specification or illustration contained in any product pamphlet or other sales or marketing literature of the Seller and no representation written or oral, correspondence or statement made by the Seller or any of its employees, agents or representatives, whether expressed or implied, shall form part of any Agreement.
- 6.2. Goods described in the Seller's literature or elsewhere are subject to a continuing process of technical change and development and the Seller therefore reserves the right to alter specifications without notice at any time before delivery. All descriptions, illustrations, specifications and dimensions are approximate and are only intended to present a general guideline as to the type of Goods represented thereby. It is therefore agreed by the Buyer that Goods supplied may not comply in all respects with the description in the Seller's literature or elsewhere.

7. Delivery and risk

- 7.1. The date of delivery specified by the Seller is an estimate only given in good faith.
- 7.2. The Seller undertakes to use reasonable endeavours to despatch the Goods on the agreed date, but does not guarantee to do so.
- 7.3. Time of delivery shall not be the essence of the Agreement, unless expressly agreed in writing by the Seller and the Seller shall not be liable for any loss, damage or expense suffered by the Buyer or any other party by reason of any alleged delay in delivery.
- 7.4. Where the Seller is authorised or required by the Buyer to deliver the Goods to the Buyer:
 - 7.4.1. the Goods will be deemed to be delivered upon delivery of the Goods to a carrier (whether named by the Buyer or not);
 - 7.4.2. all risk in the Goods shall pass to the Buyer on delivery, such that the Buyer shall be liable for any subsequent loss or damage to Goods however caused;
 - 7.4.3. the Parties agree that the Seller will be under no obligation to give a notice under section 32(3) of the Sale of Goods Act;
 - 7.4.4. the Buyer authorises the Seller to enter into an agreement with the carrier on its standard terms and conditions which the Buyer confirms shall satisfy the requirements of the Seller under section 32(2) of the Sale of Goods Act.
- 7.5. Goods collected by the Buyer from the Seller's premises shall be deemed to be delivered and risk shall pass to the Buyer upon the Buyer arriving at the Seller's premises.
- 7.6. Goods transported by the Seller shall be deemed to be delivered and risk shall pass to the Buyer when they are ready to be unloaded at the site specified by the Buyer and the Buyer agrees that Section 32(3) of the Sale of Goods Act shall not apply to Goods sent by the Seller.
- 7.7. If delivery is refused by the Buyer or is delayed, suspended or made by instalments at the request of the Buyer, risk in the Goods (or any of them not delivered in these circumstances) shall pass to the Buyer immediately upon such refusal or request by the Buyer and (without prejudice to the

generality of the foregoing) the Seller shall place such Goods into store and the Buyer shall be responsible to pay the costs of storage and insurance of such Goods and of any attempted delivery of such Goods.

- 7.8. No liability for non-delivery, loss of or damage to the Goods occurring prior to delivery or for any claim that the Goods are not in accordance with an Agreement will attach to the Seller unless claims to that effect are notified in writing by the Buyer to the Seller: (a) within 7 days of delivery for loss damage or non-compliance with the Agreement or (b) for non-delivery within 10 days of the delivery date specified by the Seller. If the Buyer fails to give such notice the Goods shall be deemed to be in all respects in accordance with the Agreement and, without prejudice to earlier acceptance by the Buyer, the Buyer shall be bound to accept and pay for the same accordingly.
- 7.9. In the event of a valid claim for non-delivery, loss, damage or non-compliance with the Agreement the Seller undertakes at its option either to repair or replace the Goods at its expense but shall not be under any further or other liability to any person in connection with such non-delivery loss damage or non-compliance.
- 7.10. If forwarding instructions are not received within 5 days, or 14 days for export orders, of the Seller's advice to the Buyer that Goods are ready for despatch, the Seller shall be entitled to make an appropriate storage charge from the date of such advice.

8. Title

- 8.1. In spite of delivery having been made, title in the Goods shall not pass from the Seller until the Buyer has paid the price of all the Goods under any Agreement and no other sums are due from the Buyer to the Seller.
- 8.2. Until the property in the Goods passes to the Buyer, the Buyer shall hold the Goods and each of them on a fiduciary basis as a custodian/bailee for the Seller. The Buyer shall store the Goods separately from all other Goods in its possession and marked in such a way that they are clearly identified as the property of the Seller. The Buyer shall not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods. The Buyer shall maintain the Goods in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller.
- 8.3. Notwithstanding that the Goods remain the property of the Seller; the Buyer may sell the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Until title in the Goods passes from the Seller, the entire proceeds of sale or otherwise of the Goods shall be held on trust by the Buyer for the Seller.
- 8.4. Until such time as title in the Goods passes from the Seller to the Buyer, the Buyer shall, upon request, deliver up such Goods as have not ceased to be in existence or resold, to the Seller. If the Buyer fails to do so, the Seller may enter upon any premises owned or occupied or controlled by the Buyer where the Goods are situated and repossess the Goods.
- 8.5. The Seller shall have the right to pursue an action for the price of the Goods notwithstanding that title may not have passed to the Buyer.

9. Buyer's obligations

- 9.1. The Buyer shall provide the Seller with any information reasonably required by the Seller as well as obtain all necessary permissions and consents including (without prejudice to the generality of the foregoing) promptly obtaining all necessary import licences, clearances and other consents necessary for the purchase of the Goods.
- 9.2. Without prejudice to any other rights to which the Seller may be entitled, in the event that the Buyer unlawfully terminates or cancels any Agreement, the Buyer shall be required to pay to the Seller, as agreed damages and not as a penalty, the full amount of any third party costs to which the Seller has committed and in respect of cancellations on less than 30 days' written notice the full price of the Goods as set out in the Agreement, and the Buyer agrees this is a genuine pre-estimate of the Seller's losses in such a case.

10. Alterations to the Agreement

- 10.1. Subject to clause 19.1, the Parties may, at any time, mutually agree upon variations to an Agreement, save for an Order Acknowledgement, provision for which is set out below.

- 10.2. Any alterations in the scope of Goods to be provided under an Agreement shall be set out in a revised Order Acknowledgement, which shall reflect the changed Goods and price and all other terms agreed between the Parties.
- 10.3. The Buyer may at any time within 14 days of the Order Acknowledgement request in writing alterations to it. On receipt of the request for alterations, the Seller shall, within 7 days, or such other period as may be agreed between the Parties, advise the Buyer by notice in writing whether it is prepared to alter the Order Acknowledgement in accordance with the Buyer's request and, if it is, the basis upon which it is prepared to do so having regard to the changes which the Seller shall require to the price and any other terms previously agreed between the Parties ('an alteration notice').
- 10.4. The Buyer shall, within 7 days of receipt of an alteration notice, or such other period as may be agreed between the Parties, advise the Seller by notice in writing whether or not it wishes an Agreement to be altered on the basis set out in the alteration notice. If such a notice is given by the Buyer, the terms of the altered Agreement shall be set out in a revised Order Acknowledgement.

11. Warranty

- 11.1. The Seller warrants that it has the right to sell the Goods, but otherwise the Goods are provided on an 'as-is' basis without warranty of any kind, express or implied, oral or written.
- 11.2. Where the Goods have been manufactured by the Seller and are found under proper use (fair wear and tear excepted) to be defective, the Seller shall repair, or in its sole discretion, replace such defective Goods free of charge within 90 days from the receipt of notification from the Buyer, subject to the following conditions:
 - 11.2.1. the Buyer notifying the Seller in writing immediately upon the defect becoming apparent;
 - 11.2.2. the defect being solely due to faulty design, materials or workmanship.
- 11.3. Any Goods to be so repaired or replaced shall be returned to the Seller at the Buyer's expense.
- 11.4. Where the Goods have been manufactured and supplied to the Seller by a third party, any warranty granted to the Seller shall be passed on to the Buyer to the extent that the Seller is able and subject to the Goods having been accepted and paid for by the Buyer.
- 11.5. The Seller shall be entitled in its absolute discretion to refund the price of defective Goods in the event that such price has already been paid.

12. Indemnity

- 12.1. The Buyer shall indemnify the Seller against all claims (including but not limited to loss of profit), costs and expenses in respect of any dispute, suit, action, arbitration or proceedings that arise out of, or in connection with an Agreement (including without limitation legal fees and other professional fees) which the Seller may incur and which arise, directly or indirectly, from the Buyer's breach of any of its obligations under an Agreement.

13. Limitation of liability

- 13.1. The following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
 - 13.1.1. any breach of any Agreement;
 - 13.1.2. any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
 - 13.1.3. any representation, statement or tortious act or omission (including negligence) arising under or in connection with any Agreement.
- 13.2. To the extent permitted by law, no liability of any nature shall be incurred or accepted by the Seller in respect of any representation made by the Seller, or on its behalf, to the Buyer, or to any party acting on the Buyer's behalf, prior to the making of an Agreement, where such representations were made or given in relation to:
 - 13.2.1. the correspondence of the Goods with any description;
 - 13.2.2. the quality of the Goods; or

- 13.2.3. the fitness of the Goods for any purpose whatsoever.
- 13.3. No liability of any nature, including, but not limited to negligence, shall be incurred or accepted by the Seller in respect of any express term in any Agreement where such term relates in any way to:
 - 13.3.1. the correspondence of the Goods with any description;
 - 13.3.2. the quality of the Goods; or
 - 13.3.3. the fitness of the Goods for any purpose whatsoever.
- 13.4. Without limitation, any implied term under sections 13 to 15 of the Sale of Goods Act 1979 as to the quality, fitness for purpose or description of the Goods, all of which are specifically and unreservedly excluded to the fullest extent permitted by law. In particular, but without limitation, no warranty is given that the Goods are suitable for any specific purpose intended by the Buyer.
- 13.5. An Agreement shall not constitute a sale by description or sample.
- 13.6. Save as expressly provided in the Agreement, all conditions, warranties and other terms implied by statute or common law are to the fullest extent permitted by law excluded from any Agreement.
- 13.7. The Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of any Agreement shall be limited to the price stated in the Order Acknowledgement.
- 13.8. In no event shall the Seller be liable to the Buyer for any loss of business, loss of opportunity, loss of profits, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of contract, loss of use, loss or corruption of data or information or for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses whatsoever (howsoever caused) which arise out of or in connection with any Agreement. This shall apply even where such a loss was reasonably foreseeable or the Seller had been made aware of the possibility of the Buyer incurring such a loss.
- 13.9. Nothing in an Agreement shall exclude or limit the Seller's liability for death or personal injury resulting from the Seller's negligence or that of its employees, agents or sub-contractors.

14. Termination

- 14.1. The Seller may, by written notice, terminate any Agreement immediately if the Buyer is in breach of any of the terms of an Agreement, which, if capable of remedy, is not remedied within 7 days of a notice served by the Seller requiring such breach to be remedied. Failure to pay any sums due is a breach of the terms of the Agreement which is not capable of remedy.
- 14.2. Any Agreement shall be terminated if an order is made for bankruptcy of the Buyer or an effective resolution is passed for the winding-up of the Buyer or the Buyer makes a composition with its creditors or if a supervisor, receiver, administrator, administrative receiver or other encumbrancer takes possession of or is appointed over the whole or any part of the assets of the Buyer.
- 14.3. Any Agreement shall be terminated if either party ceases to carry on its business or substantially the whole of its business or where either party is declared insolvent.
- 14.4. Termination of an Agreement shall not affect any rights or obligations of the Parties arising prior to such termination.

15. Intellectual property rights

- 15.1. The specification and design of the Goods and all Intellectual Property Rights therein shall as between the Parties be the property of the Seller. Where any designs or specifications have been supplied by the Buyer for manufacture by the Seller or to the order of the Buyer then the Buyer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party and the Buyer shall indemnify the Seller against all claims, costs, damages and expenses which the Seller may incur and which arise, directly or indirectly, from the Buyer's breach of such warranty.
- 15.2. The Buyer shall not:
 - 15.2.1. claim any right of property in any of the Seller's Intellectual Property Rights;
 - 15.2.2. register or cause to be registered any Intellectual Property Rights that is similar to or an imitation of any Intellectual Property Rights of the Seller;

- 15.2.3. make any modifications to the Goods or their packaging;
 - 15.2.4. alter, remove or tamper with any marks, numbers or other means of identification used on or in relation to the Goods;
 - 15.2.5. use any of the Seller's Intellectual Property Rights in any way that might prejudice their distinctiveness or validity or the goodwill of the Seller in them;
 - 15.2.6. use in relation to the Goods any intellectual property rights other than the Intellectual Property Rights without obtaining the prior written consent of the Seller.
- 15.3. For the avoidance of doubt, nothing in an Agreement confers upon the Buyer any rights whatsoever in the Seller's Intellectual Property Rights or the goodwill associated with them. The Buyer acknowledges that, except as expressly provided in this Agreement, it will not acquire any rights in respect of the Seller's Intellectual Property Rights and goodwill and that they are, and shall remain, vested in the Seller.

16. Force majeure

- 16.1. The Seller shall not be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to, acts of God, decrees or restraints by civil authorities including acts of local and national government, extreme weather conditions, labour disputes of whatever nature including, without prejudice to the generality of the foregoing, work to rule, strikes and lockouts, perils of the sea or air, fire, flood, drought, explosion, pandemic, embargo, war, riots, civil commotions, sabotage, terrorism, breakdown of plant or machinery or shortage or unavailability of labour or raw materials from a natural source of supply, and the Seller shall be entitled in these circumstances to delay or cancel delivery or to reduce the amount delivered.

17. Assignment

- 17.1. The Buyer shall not be entitled to assign an Agreement or any part of it without the prior written consent of the Seller.
- 17.2. The Seller may assign an Agreement or any part of it to any person, firm or company.

18. Waiver

- 18.1. The failure by either party to enforce, at any time or for any period, any one or more of the terms and conditions of the Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of an Agreement.

19. Variation

- 19.1. Any variation to the Conditions (including any special terms and conditions agreed between the Parties) shall be inapplicable unless agreed in writing by and signed by an authorised person on behalf of the Seller.

20. Severability

- 20.1. If any term or provision of the Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

21. Rights of third Parties

- 21.1. The Parties do not intend any part of an Agreement to be enforceable by any person not a party to it, by virtue of the Contracts (Rights of Third Parties) Act 1999.

22. Governing law

- 22.1. This Agreement shall be governed by and construed in accordance with the law of England and Wales and the Seller and the Buyer irrevocably agree that the courts of England and Wales have exclusive jurisdiction in respect of any dispute, suit, action, arbitration or proceedings which arises out of, or in connection with an Agreement.

