



TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

(REVISED JULY 2022)

Octink - a trading division of Service Graphics Limited (formerly Paragon Group UK Ltd)
Registered in England no. 00551336. Registered Office 1 Onslow Street, London, EC1N 8AS

VERSION JULY-2022

The Customer's attention is particularly drawn to the provisions of clause 13.

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

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

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 16.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Customer: the person or firm who purchases the Goods and/or Services from the Supplier as set out in the Order.

Deliverables: the deliverables set out in the Order.

Delivery Location: has the meaning set out in clause 4.2.

Force Majeure Event: has the meaning given to it in clause 16.1(a).

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier and expressly included in the Supplier's proposal and in or incorporated by reference in the Order.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, as the case may be.

Service Life: the expected lifetime of the Goods and/or Services (as case may be) as stated in the Supplier's proposal.

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification.

Service Specification: the description or specification for the Services provided in writing by the Customer and agreed with the Supplier in writing, or provided by the Supplier and accepted by the Customer by placing an Order.

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Supplier Materials: has the meaning set out in clause 9.1(i).

1.2 Construction. In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes e-mails.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues an express written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract and the Supplier acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Customer which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.

- 2.5 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, including without limitation any terms contained in the Customer's purchase order or terms of purchase.
- 2.6 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue.
- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. GOODS

- 3.1 The Goods are described in any applicable Goods Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer or using materials or branding supplied by the Customer, the Customer shall indemnify the Supplier on demand against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable 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 Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements and to make reasonable variations to any colours, tolerances and materials specified in the Goods Specification.
- 3.4 If the Customer accepts or otherwise signs off on the Goods or any milestone relating to the Goods or the Goods Specification, any further changes requested by the Customer will be charged in addition at the Supplier's standard rates in force at that time.

4. DELIVERY OF GOODS

- 4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered. Where the Goods are third party Goods delivered direct to the Customer, the Supplier will notify the third party supplier of the Order number reference to include in the delivery and will inform the Customer of the anticipated delivery date and third party details.
- 4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree expressly in writing (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.

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- 4.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that 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.
- 4.5 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by 1) a Force Majeure Event; 2) the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods; or 3) any relevant instruction related to the supply of the Goods issued by the Customer.
- 4.6 If the Customer fails to accept or take delivery of the Goods within 10 Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the 11th Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
 - (b) the Supplier shall store the Goods until delivery takes place, and shall be entitled to charge the Customer for all related costs and expenses (including insurance).
- 4.7 If 20 Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted or taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 4.8 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 5. QUALITY OF GOODS**
- 5.1 The Supplier warrants that on delivery, and for a period of 6 months from the date of delivery (**Warranty Period**), the Goods shall:
- (a) conform in all material respects with their description and any applicable Goods Specification;
 - (b) be free from material defects in design, material and workmanship.

- 5.2 The Warranty Period set out in clause 5.1 may be extended or reduced expressly in writing by the Supplier (depending on the nature of the Goods) and in such cases the Warranty Period shall be the period stated in the Goods Specification. Where, or to the extent, the Goods are manufactured by a third party, the Supplier shall where possible pass to the Customer the benefit of any manufacturer's warranty.
- 5.3 Subject to clause 5.4, the Supplier shall, at its option, repair or replace the defective Goods, provided that:
- (a) the Customer gives notice in writing during the Warranty Period and within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
 - (b) the Supplier is given a reasonable opportunity of examining such Goods; and
 - (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost.
- 5.4 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.3;
 - (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
 - (c) the defect arises as a result of the Supplier following any drawing, design, Goods Specification or any other specification supplied or approved by the Customer or is a design defect which the Customer has signed off or otherwise accepted;
 - (d) the Customer alters or repairs such Goods without the written consent of the Supplier;
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - (f) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.6 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 5.3, except that the Warranty Period shall be the balance of the Warranty Period for the Goods originally supplied.
- 5.7 The terms implied by the Sale of Goods Act 1979 and Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

6. MAINTENANCE AND REMOVAL OF GOODS

- 6.1 Unless otherwise has been expressly agreed in writing between the Customer and the Supplier, the Customer is solely responsible for the installation of the Goods and the use of the Services. Where the Supplier has agreed in writing to be responsible for the installation of the Goods, the Supplier shall also be responsible for installation of any replacement Goods.
- 6.2 Unless the Supplier and Customer have entered into a separate maintenance agreement in writing, the Supplier shall have no responsibility for inspection, maintenance and the continued safe installation of the Goods after delivery or for the correct use of Services once these have been performed by the Supplier. This clause 6.2 shall not exclude the Supplier's liability to repair or replace defective Goods in accordance with clause 5.
- 6.3 Save as to where the Supplier has entered into a separate maintenance agreement with the Customer in relation to the Goods and Services, the Customer is responsible for any and all losses or damages relating to a) any third party's property or personal injury to or death of any third party or b) the Customers property or any personal injury to or death of the Customer or anyone engaged by the Customer.
- 6.4 If the Supplier is met with any claim from the people set out in clause 6.3 relating to any loss or damage set out in clause 6.3, the Customer shall indemnify the Supplier on demand against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier.
- 6.5 The Customer shall be responsible for removal of Goods installed by the Supplier at its own cost and expense. If the Supplier agrees to remove Goods installed for the Customer, the Customer shall pay to the Supplier, in addition to any other charges set out in the Service Specification, all charges for making good and disposal of the Goods.
- 6.6 Unless otherwise is expressly agreed in writing between the Customer and the Supplier, the Goods and/or the Services (as case may be) shall not have a Service Life which extends beyond two years from the date of delivery. The Customer acknowledges that after the expiry of the Service Life, the Customer should in addition to its general maintenance obligation under these Conditions assess whether the Goods and/or the Services (as case may be) can still be used for the purposes they were initially designed for.
- 6.7 Any agreement on Service Life (regardless of whether it is the default position under these Conditions or any other specific agreement) does not unless otherwise expressly agreed in writing between the Customer and the Supplier a) provide an extension of the warranty after clause 5 or the Warranty Period under these Conditions; or b) alter the responsibility in relation to maintenance as per this clause 6.

7. TITLE AND RISK

- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.

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- 7.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:
- (a) the Goods; and
 - (b) any other goods that the Supplier has supplied to the Customer in respect of which payment has become due.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) Store the Goods separately from all other Goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - (b) Not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
 - (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(l); and
 - (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 7.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(l), or the Supplier reasonably believes that any such event is about to happen or Customer fails to pay for the Goods when payment is due and notifies the Customer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. SUPPLY OF SERVICES

- 8.1 The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
- 8.2 The Supplier shall use reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services. If there is any delay, the Supplier will endeavour to keep Customer informed of the Order's progress. Without limiting the generality of the foregoing, the Customer acknowledges that the Supplier may not be able to provide the Goods or Services in certain weather conditions, such as when weather conditions reach 39-45 mph Beaufort scale 8, there is a storm, tempest, or other inclement weather which could affect the health and safety of the Supplier work force involved in performing the Services.

- 8.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 8.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill. Where the Services performed by Supplier do not comply with this warranty and Customer notifies Supplier in writing within a reasonable time after performance (up to 30 days), Supplier will reperform the Services at no extra charge to the Customer.
- 8.5 Where specified in writing, the performance of the Services will be dependent on the Customer preparing the site. If the site is not ready, Customer acknowledges and accepts that the performance of the Services may be delayed. The Supplier shall be entitled to invoice for the performance of the Services at the date on which the Services were due to commence and to issue this against any purchase order raised by the Customer. Where performance is delayed by one week or more, the Supplier shall also be entitled to charge Customer for storage of the materials to be used in connection with the provision of the Services.

9. CUSTOMER'S OBLIGATIONS

9.1 The Customer shall:

- (a) ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate;
- (b) co-operate with the Supplier in all matters relating to the Services including without limitation promptly signing off on the Services and/or Goods or notifying of any defects during the sign-off procedure;
- (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- (d) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- (e) prepare the Customer's premises for the supply of the Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) comply with all applicable laws, including health and safety laws;
- (h) keep and maintain all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
- (i) following delivery (and including during the Warranty Period), regularly inspect the Goods and maintain them in accordance with the Supplier's oral or written instructions or (if there are none) good trade practice and

- (j) take out all risk insurance against any claim from any third parties and any loss which the Customer may suffer.

9.2 If the Supplier's performance of any of its obligations in respect of the Goods and Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation or if the Customer breaches any of its obligations under these Conditions (**Customer Default**):

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 9.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

10. CHARGES AND PAYMENT

10.1 The price for Goods and/or Services shall be the price set out in the Order or, if no price is quoted, the price set out in the Supplier's published price list as at the date of delivery. The price of the Goods is exclusive of all costs and charges of packaging, insurance and transport of the Goods which shall be paid by the Customer when it pays for the Goods and/or Services.

10.2 The Supplier reserves the right to:

- (a) increase its pre-set rates for the Services. The Supplier will give the Customer written notice of any such increase 2 weeks before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within 1 week of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 1 week's written notice to the Customer; and
- (b) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:
 - (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or

- (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

10.3 The Supplier shall invoice the Customer for Goods and Services on the Commencement Date. If the Customer has raised a purchase order for the Services or given written confirmation (including by email) to the Supplier to proceed with the Services, Supplier shall be entitled to invoice, even if the site is not ready for the Services to commence.

10.4 The Customer shall pay each invoice submitted by the Supplier:

- (a) within 30 days of the date of the invoice unless otherwise is expressly agreed in writing; or
- (b) in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
- (c) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

10.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods. Unless otherwise expressly agreed in writing in the Contract, the VAT reverse charge rules shall not apply to any sums payable under the Contract.

10.6 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of 3 per cent per annum above the then current National Westminster Bank PLC's base lending rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.

10.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. If any such withholding or deduction is required by law, the Customer shall, when making the payment to which the withholding or deduction relates, pay to the Supplier such additional amount as will ensure that the Supplier receives the same total amount that it would have received if no such withholding or deduction had been required. If the Customer wishes to dispute all or any part of any invoice in good faith, it shall notify the Supplier within 10 working days of receipt of the invoice of the reason for the dispute and the amount so disputed.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 Subject to clause 11.2, all Intellectual Property Rights in or arising out of or in connection with the Goods or Services shall be owned by the Supplier, save to the extent the Goods incorporate any branding or materials of or supplied by the Customer. Subject to receiving payment in full, the Supplier hereby licenses the Customer to use any Intellectual Property Rights created by it in connection with the Contract to the extent necessary to enable the Customer to use the Goods or Services as intended.
- 11.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Goods or Services, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 11.3 All Supplier Materials are the exclusive property of the Supplier.

12. CONFIDENTIALITY

- 12.1 A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 12 shall survive termination of the Contract.
- 12.2 The obligation of confidentiality contained in clause 12.1 will not apply or will cease to apply to the information stated in clause 12.1 or any part thereof which at the time of its disclosure by the Disclosing Party:
- a) is already in the public domain or which subsequently enters the public domain other than by breach of the terms of a Contract by the Receiving Party;
 - b) is already known to the Receiving Party (as evidenced by written records) at the time of its disclosure by the Disclosing Party and was not otherwise acquired by the Receiving Party from the Disclosing Party under any obligation of confidence;
 - c) is at any time after the date of the Contract acquired by the Receiving Party from a person having the right to disclose the same to the Receiving Party without breach of obligation owed by that person to the Disclosing Party;
 - d) or is required to be disclosed by applicable law or regulation, or order of a court of competent jurisdiction or government department or agency.

13. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

13.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) defective products under the General Product Safety Regulations 2005.

13.2 Subject to clause 13.1:

- (a) the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract (including any losses that may result from a deliberate breach of the Contract by the Supplier, its employees, agents or subcontractors); and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by a deliberate breach of the Contract by the Supplier, its employees, agents or subcontractors, shall not exceed twice the price paid by the Customer to the Supplier for the Goods and/or Services to which the claim relates.

13.3 When weather conditions reach 39-45 mph Beaufort scale 8 these conditions are no longer considered normal and the Supplier shall not be liable to the Customer for any damage caused to or by the Goods or delay in providing the Services.

13.4 Except as set out in these Conditions, all warranties, representations, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

13.5 This clause 13 shall survive termination of the Contract.

14. TERMINATION

14.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 7 days after receipt of notice in writing of the breach;
- (b) 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 section 123 of the Insolvency Act 1986 or (being an individual) is deemed

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either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.1(b) to clause 14.1(i) (inclusive);
- (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

14.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract:

- (a) by giving the Customer 1 month's written notice where the Supplier has given notice to increase its preset rates pursuant to clause 10.2(a) and the Customer does not accept the increase;
- (b) with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

- 14.3 The Customer may terminate the Contract by giving the Supplier not less than 1 month's written notice where the Supplier has given it notice of a proposed increase in the preset rates pursuant to clause 10.2(a) and the Customer does not agree to the proposed increase, provided such notice shall expire on or before the delivery date specified in the Order. Charges shall still be due and payable for any Goods or Services supplied up to the effective date of termination.
- 14.4 Without limiting its other rights or remedies, the Supplier shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if:
- (a) the Customer fails to make pay any amount due under this Contract on the due date for payment; or
 - (b) the Customer becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

15. CONSEQUENCES OF TERMINATION

15.1 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall at its cost return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them pursuant to clause 7.4 and where applicable to charge for removing any installed Goods, in accordance with clause 6.5. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

16. GENERAL

16.1 Force majeure:

- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or

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transport network, epidemic or pandemic, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation, guidance, requirement, restriction or direction, accident, breakdown of plant or machinery, fire, flood, storm, gale, tempest, or default of suppliers or subcontractors and includes Coronavirus (Coronavirus 2 (SARS-CoV-2)) and any impact on service providers or suppliers of Supplier in trying to comply with government guidance, requirements or restrictions relating to Coronavirus 2.

- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than 4 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

16.2 Assignment and subcontracting:

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- (b) The Customer shall not, without the prior express written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

16.3 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by e-mail.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by e-mail, on the next Business Day after transmission.
- (c) This clause 16.3 shall not apply to the service of any proceedings or other documents in any legal action.

16.4 Waiver and cumulative remedies:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default.

No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. 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.

- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.

16.5 Severance:

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

16.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

16.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed expressly in writing and signed by the Supplier.

16.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

17. DATA PROTECTION.

17.1 The Supplier shall process personal data received from the Customer in accordance with its privacy policy, which can be found on the Supplier's website at <https://octink.com/octink-privacy-policy.pdf>. The Supplier is a data controller for the personal data the Customer has provided to the Supplier for the purposes specified in the Contract and in the Supplier's privacy policy on the Supplier's website.

17.2 The Supplier's privacy policy on the Supplier's website sets out the terms on which the Supplier may process any personal data which it collects from the Customer, or that the Customer provides to the Supplier. The Supplier may update its privacy policy from time to time by publishing a new version on its website. The Customer should check the aforementioned web-page occasionally to ensure it is aware of any updates or changes to the Supplier's privacy policy.

18. MODERN SLAVERY ACT 2015.

18.1 As at the date hereof, neither the Supplier nor any of its officers, employees or other persons associated with it:

- a) has been convicted of any offence involving slavery and human trafficking; and
- b) having made reasonable enquiries, to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking; and
- c) the Supplier shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

19. ANTI-BRIBERY / ANTI-CORRUPTION.

19.1 The Supplier warrants and undertakes that it and its officers, employees or other persons associated with it shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and shall not engage in any activity, practice or conduct which would cause the Customer or any Customer group company to be in breach of any anti-bribery or anti-corruption law. The Supplier shall ensure that all contracts with its subcontractors or suppliers contain conditions equivalent to this clause 19.

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