

# J.SYKES & SONS (MANCHESTER) LIMITED

## TERMS AND CONDITIONS OF SALE ("the Terms")

The following terms and conditions apply in respect of any and all supply of goods by the Company

### 1. DEFINITIONS

1.1 In these Terms (unless the context otherwise requires) the following words shall have the following meanings:-

"the **Affiliate**" means a company, corporation, partnership or other business entity which is directly or indirectly controlled by or under substantially common control with or controls the Buyer and "**control**" means the power of an entity to secure (whether by the holding of shares, possession of voting rights or by virtue of any powers conferred by articles of association, constitution, partnership, agreement or other document regulating such entity) that the affairs of another are conducted in accordance with its wishes and "**controlled**" shall be construed accordingly.

"the **Buyer**" means the person, firm or company or any Affiliate with whom any contracts to sell goods is made by the Company.

"the **Company**" means J. Sykes & Sons (Manchester) Limited.

"the **Company's Premises**" means New Smithfield Market, Whitworth Street East, Manchester M11 2WP.

"**Confidential Information**" All information in respect of the Company and including but not limited to; any business methods; financial information; prices; discounts; business; financial; marketing; development; customer lists or details; computer systems and software know how or other matters connected with the Goods or other products provided or obtained by either Party; information concerning either Party's relationship with actual or potential clients or customers.

"the **Contract**" means the agreement between the Buyer and/or an Affiliate and the Company for the supply of Goods and which is enforceable against the Buyer and any Affiliate.

"the **Goods**" means the articles or things or any of them described in the Order Details between the Company and the Buyer for the sale or supply of goods by the Company (including any instalment) together with any packaging.

"the **Order Details**" means those set out on the Company's acknowledgement of order.

"**Parties**" means the Buyer and/or any Affiliate and the Company.

"**Writing**" including cable, facsimile transmission and/or other comparable means of communication.

### 2. GENERAL

2.1 These Terms shall be deemed to be incorporated into every Contract entered into by the Company to sell Goods and shall notwithstanding any statement to the contrary contained in any of the Buyers or any Affiliates communications prevail over any conflicting or inconsistent terms and conditions contained in any order, letter or form of contract sent by the Buyer or any Affiliate to the Company or any other communication between the Buyer or any Affiliate and Company whatsoever and whatever their respective dates unless or to the extent that any variation of these Terms shall be expressly agreed in writing signed by one of the Company's directors.

2.2 No order placed with the Company shall be binding until confirmed by the Company by the issue of an acknowledgement of order.

2.3 Any terms and conditions or acknowledgement of orders issued by the Company and sent to the Buyer shall be binding on the Buyer and any Affiliate and the terms shall be enforceable against either Party.

2.4 A quotation by the Company does not constitute an offer but merely an invitation to treat and shall not be binding on the Company unless and until an order from the Buyer is accepted by the Company by issuing an acknowledgement of order. The Company reserves the right to withdraw or revise a quotation prior to the Company issuing an acknowledgement of order.

2.5 All dealings between the Company and the Buyer or any Affiliate are confidential. The Buyer may not disclose any Confidential Information or information concerning Contracts with the Company (unless required by law) to any third party without the consent of the Company.

2.6 Any typographical, clerical or other error or omission in any quotation, sales literature, acceptance of an offer, letter, invoice or any other document whatsoever and howsoever transmitted to the Buyer shall be subject to correction without any liability on the part of the Company.

2.7 No information, including but not restricted to, statements, descriptions, particulars of weights and/or dimensions, warranties, conditions or recommendations contained in any catalogue, price list, advertisement or any other written statement or verbal communication whatsoever or howsoever transmitted shall be incorporated into the Contract nor shall it be deemed to vary or override these Terms in any way.

2.8 Each Party acknowledges that each Contract together with any variations and/or qualifications made pursuant to these Terms contains the whole agreement between the Parties and that it has not relied upon any oral or written representation made to it by the other Party or the other Party's employees or agents.

2.9 Any reference in these Terms to any provisions of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2.10 The headings in these Terms are for convenience only and shall not affect their interpretation.

### 3. PRICES

3.1 Subject to the following provisions of these Terms the price of the Goods shall be as stated in the Order Details.

3.2 Unless stated to the contrary in the Order Details and subject to the provisions of clause 3.1 all prices quoted include the cost of normal delivery and insurance to the point of delivery stated in the Order Details.

3.3 The Company reserves the right, by giving notice to the Buyer at any time before issuing an acknowledgement of order, to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond its control including but not restricted to alteration of duties, fluctuation in exchange rates, significant increase in the costs of labour, materials. The Company accordingly reserves the right to adjust the invoice price by the amount of any increase in such costs after the price is set out in the Order Details and the invoice so adjusted pursuant to this clause 3.3 shall not be disputed by the Buyer and further shall be payable by the Buyer as if the price set out therein were the original Contract price.

3.4 Except as otherwise expressly stated in the Order Details:-

3.4.1 all prices are stated exclusively of VAT;

3.4.2 the Buyer shall pay forthwith against the invoice the Company's reasonable charges for any unusual delivery arrangements or special packaging arrangements made at the Buyer's request.

3.5 Where the Goods are sold for export from the United Kingdom the Buyer shall be responsible for the payment of any duties or taxes (arising from the export of the Goods from the United Kingdom into the country of destination) and shall indemnify and hold harmless the Company from and against any such liability to pay such duties or taxes and specifically shall be liable to pay to the Company such duties and taxes if so required by the Buyer pursuant to these Terms.

### 4. DELIVERY

4.1 Any delivery dates specified in the Order Details are given in good faith but unless expressly stated to be guaranteed are given for guidance only and shall not be of the essence of any contract. The Company's only obligation shall be to deliver within a reasonable time taking into account the time the Company received all necessary information including delivery instructions from the Buyer or any Affiliate to enable the Company to manufacture or deliver the Goods.

4.2 No stipulation as to time or period of delivery shall be of the essence of any contract between the Company and the Buyer.

4.3 The Buyer or any Affiliate shall accept the Goods even if they are delivered late and late delivery will not entitle the Buyer to terminate the Contract.

4.4 The Company shall not under any circumstances be liable to compensate the Buyer or any Affiliate for any indirect or consequential loss whatsoever (including but not limited to loss of profit or liability to third parties) arising by reason of the Company's failure to deliver the Goods after or within the time or period stipulated by the Buyer or that notified by the Company to the Buyer or any Affiliate or within a reasonable time and whether or not such failure results from the Company's negligence.

4.5 The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Buyer or any Affiliate.

4.6 Where delivery of the Goods is made by the Company in bulk the Company reserves the right to deliver up to 25% more or 25% less than the quantity ordered but the price payable shall be in respect of the actual quantity on a pro-rata basis.

4.7 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Terms or any claim by the Buyer or any Affiliate in respect of any or more instalment shall not entitle the Buyer or any Affiliate to repudiate the Contract.

4.8 If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control or the Buyer's fault and the Company is accordingly liable to the Buyer, the Company's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest market available) of similar goods to replace those not delivered over the price of the Goods.

4.9 If the Buyer or any Affiliate fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's or any Affiliate's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Company may:

4.9.1 store the Goods until actual delivery and charge the Buyer or any Affiliate for the reasonable costs (including insurance) of storage;

4.9.2 or sell the Goods at the best price readily obtainable (after deducting all reasonable storage and selling expenses) in which event the Buyer or any Affiliate shall be liable for any shortfall between the price which would have been payable under the Contract and that actually obtained.

These rights shall also apply where the Buyer or any Affiliate has arranged to collect the Goods from the Company but fails to do so within 24 hours of notification by the Company that such Goods are ready for collection. In any or all of the eventualities specified in this clause 4.8 the Company shall be entitled to treat the Contract as being repudiated and thereby terminated.

4.10 Any claim that Goods are not as specified in the Order Details must be made by written notification to the Company within 24 hours of delivery.

4.10 The Company shall be entitled to cancel any accepted order or withhold delivery of any Goods or performance of any of its obligations if the Buyer or any Affiliate is in breach of any obligation to the Company.

### 5. PAYMENT

5.1 Subject only to any agreement in writing to the contrary between the Company and the Buyer or any Affiliate the Company shall be entitled to invoice the Buyer or any Affiliate for the price of the Goods (or any instalment) on or at any time after delivery of the Goods unless the Goods are to be collected by the Buyer or the Buyer fails to take delivery of the Goods in which event the Company shall be entitled to invoice the Buyer or any Affiliate for the price at any time after the Company has notified the Buyer or any Affiliate that the Goods are ready for collection or (as the case may be) has tendered delivery of the Goods.

5.2 Payment of the invoiced price shall be made within the agreed terms as set out on the initial account application form and on all the Company invoices.

5.3 Should any of the events mentioned in clause 7.4 and 8.3 arise then all periods of credit shall cease and the total amount invoiced and all other amounts due under any Contract between the Company and the Buyer or any Affiliate shall become immediately due and payable.

5.4 The time of payment shall be of the essence of every Contract.

5.5 Should payment not be made within the agreed terms the Company shall be entitled to charge interest on all overdue amounts calculated at a daily rate equivalent to 8% per annum above the base rate of the Bank of England until actual payment in full, irrespective of whether payment has been formally demanded or judgement entered. Further, the Buyer or any Affiliate will be liable to reimburse to the Company all costs incurred in the collection of any overdue amount.

5.6 If the Buyer or any Affiliate fails to make any payment due under any Contract between it and the Company then the Company shall be entitled to terminate any Contract between it and the Buyer or any Affiliate forthwith and shall not be liable to perform any part of any Contract still incomplete at that time nor shall the Company be bound by any warranty/condition.

5.7 The Company reserves the right to set off any debts whatsoever which the Buyer or any Affiliate owes under any Contract against any amounts which the Company owes to the Buyer or any Affiliate for any reason whatsoever.

### 6. RISK

6.1 The risk in the Goods shall pass to the Buyer or any Affiliate:-

6.1.1 in the case of the Goods to be delivered at the Company's Premises at the time the Company notifies the Buyer or any Affiliate that the Goods are available for collection;

6.1.2 in the case of Goods to be delivered otherwise than at the Company's Premises when the Company has tendered delivery of the Goods.

6.2 The Buyer or any Affiliate shall at all times comprehensively insure the Goods against loss or damage and in the event of such loss or damage shall hold the proceeds of such insurance on behalf of the Company as trustee for the Company until such time as the Goods are paid for in full.

### 7. RETENTION OF TITLE

7.1 Subject to the power given to the Buyer or any Affiliate by this clause 7, sole and absolute ownership of the Goods shall remain vested in the Company until all amounts relating to Goods supplied by the Company to the Buyer or any Affiliate under this or any other Contract have been paid in full and the Company retains the right of disposal of the Goods until ownership passes under this term.

7.2 Subject to clause 7.4 the Buyer or any Affiliate may at any time after delivery use or sell the Goods in the ordinary course of business even though the amount invoiced for the Goods has not been paid in full.

7.3 Until ownership of the Goods passes to the Buyer or any Affiliate it shall hold them as bailee in a fiduciary capacity to the Company, and:-

7.3.1 shall store and protect the Goods;

7.3.2 keep them separate from like goods owned by the Buyer or any third party;

7.3.3 in a manner which makes them readily identifiable as the Company's (by being labelled); and

7.3.2 shall upon request promptly inform the Company of the location of the Goods.

7.4 In the event of the Buyer or any Affiliate defaulting in payment of any amount due for the Goods for 7 days (whether or not any agreed credit period has expired) or if the Buyer or any Affiliate causes or threatens to cease to carry on trading or passes or calls a meeting to pass a resolution for winding up or if a receiver is appointed of any of the Buyer's or any Affiliate's assets or if a winding up petition is presented, then the Buyer or any Affiliate shall forthwith cease to use or otherwise dispose of the Goods not then used, disposed of or sold and shall upon demand forthwith deliver up to the Company any of the Company's Goods in the Buyer's or any Affiliate's position or under its control.

7.5 Should any of the events as stated in clause 7.4 be about to occur or any director of the Buyer or any of its Affiliates apprehend that any of the events as stated in clause 7.4 are likely to occur then the Buyer and/or any director of the Buyer or any Affiliate shall provide notice to the Company forthwith and the directors are bound by their fiduciary duties as per s.170-177 of the Companies Act 2006 to provide such notice to the Company and pursuant

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- to such notice, the Buyer and/or any Affiliate shall upon demand deliver up to the Company any of the Company's Goods in the Buyer's and/or the Affiliate's possession or under its control.
- 7.6 On making such a demand as in clause 7.4 and 7.5 the Company shall be entitled without incurring any liability to the Buyer or any Affiliate to enter the Buyer's premises or an Affiliate's premises where the Company's Goods are located to inspect the Buyer's or an Affiliate's stock and to remove and resell such of the Company's Goods as are to be found there and the Buyer and any Affiliate hereby grant to the Company, its employees, agents and sub-contractors a non-irrevocable licence to enter any of its premises where the Company's Goods are located in order to repossess them or inspect them at any time. The Buyer's liability to the Company in respect of any goods so removed shall be limited to the amount of any costs or expenses incurred in such removal and re-sale.
- 7.7 Nothing in this clause 7 shall give the Buyer or any Affiliate the right to return the Goods without the Company's consent.
- 7.7 "all monies clause" the risk in the goods shall pass from the Company to the Buyer upon delivery of such Goods to the Buyer. However notwithstanding delivery and the passing of risk in the goods, including full legal and beneficial ownership, shall not pass to the Buyer or any Affiliate unless:
- 7.8.1 the company has received in cash or cleared funds payment in full for all Goods delivered to the Buyer or any Affiliate; and
- 7.8.2 payment has been received in full (in cash or cleared funds) under this and all other contracts between the Company and the Buyer or any Affiliate for which payment for the full price of the Goods thereunder has not been paid; and
- 7.8.3 any of the events as described below in clause 8.3 shall occur.
- For the avoidance of doubt, payment of the full price of the Goods shall include the amount of any interest or other sum payable under these Terms and all other contracts between the Company and the Buyer under which Goods were delivered.
- 7.9 On cessation of the Buyer's or any Affiliate's right to possession of the Goods in accordance with this clause 7 the Buyer and any Affiliate shall at their own expense make the Goods available to the Company and permit the Company to repossess them.
- 8. TERMINATION AND SUSPENSION**
- 8.1 Where the Company is unable to manufacture supply or deliver the Goods by its normal route or means of delivery owing to any of the following:-
- 8.1.1 the Buyer's failure to supply any necessary information; or
- 8.1.2 any other reason beyond the Company's reasonable control including (without prejudice to the generality of the foregoing expression) shortages or unavailability from normal sources or routes of supply of raw materials, breakdown of plant, reduction or unavailability of power at the manufacturing plant, strikes, lock-outs, act of Government, fire, flood, Queen's enemies, explosion, lightning, aircraft, civil commotion, act of war, malicious mischief or theft.
- Then the Company shall have the right on giving written notice to the Buyer or any Affiliate and without incurring any liability to them to suspend further performance of this Contract for a period (not exceeding 3 months) equal to the continuance of any such impediment preventing the Company from performing its obligations.
- 8.2 At the end of any period of suspension without performance of the Contract under clause 8.1:
- 8.2.1 the Company may terminate this Contract by notice in writing to the Buyer; or
- 8.2.2 either party may terminate this Contract by notice in writing to the other.
- 8.3 In the event that:-
- 8.3.1 the Buyer and/or any Affiliate is declared bankrupt or makes any proposal to his creditors for a composition or other voluntary arrangement;
- 8.3.2 a receiver, liquidator, administrator, administrative receiver or any other like practitioner is appointed in respect of the Buyer's and/or any Affiliate's business;
- 8.3.3 the Buyer and/or any Affiliate ceases, or threatens to cease, to carry on business;
- 8.3.4 an attachment order is made against the Buyer and/or any Affiliate or any legal process is levied on any property of the Buyer and/or any Affiliate;
- 8.3.5 the Company reasonably apprehends that any of the events in clauses 8.3 i) to iv) are about to occur and gives notice to the Buyer; and/or any Affiliate;
- 8.3.6 the Buyer and/or any Affiliate is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.
- 8.3.7 either Party if the other commits a material breach of the of the Contract and has not remedied the breach within thirty days of a written request to do so but without prejudice to any other rights or remedies a Party may be entitled to under these Terms or at law or to any accrued rights or liabilities of a Party;
- 8.3.8 payment by the due date of the full amount of any invoice correctly levied by the Company on the Buyer has not been made;
- 8.3.9 the Buyer is in arrears in making payment due to the Company under any contract; or
- 8.3.10 the Buyer's stated credit limit with the Company has been reached; or
- 8.3.11 the Company believes on reasonable grounds that any payment (whether or not any agreed credit limit has expired) will not be met by the Buyer when due; or
- 8.3.12 the Buyer, any Affiliate or any of their directors breach the obligation set out at clause 7.5
- 8.4 the Company may terminate the Contract with the Buyer and/or any Affiliate forthwith.
- 8.4 In accordance with clause 8.5, any right which the Company has to terminate the Contract under any provisions of this clause 8 shall include the right for the Company to suspend further work and/or deliveries under any Contract with the Buyer and any Affiliate and require immediate payment of all amounts then due to the Company and further payment in advance before making any further deliveries under any Contract (notwithstanding agreed credit terms). If any such payment or any part of it remains in arrears for 7 days after the Company has demanded it in writing then the Company shall have the further right to cancel that and/or any other Contract without prejudice to any claim for damages it may have against the Buyer and any Affiliate and without incurring any liability to the Buyer and any Affiliate for failure to deliver.
- 8.5 When a Contract is terminated or suspended under this clause 8 then:-
- 8.5.1 the Company shall be entitled to charge the Buyer and any Affiliate with any interest, insurance, transport, storage or other costs and charges arising from such termination or suspension;
- 8.5.2 the Buyer and any Affiliate shall forthwith pay for and where appropriate take delivery of all Goods appropriated by the Company to the Contract up to the date of any such termination or suspension and shall pay other such sums then due under the Contract, or a reasonable price for the work done, whichever is the greater.
- 8.6 Apart from the right conferred on the Buyer by clause 8.2 the Buyer shall have no right to suspend deliveries or otherwise to postpone performance of any Contract by either Party nor to terminate any Contract for any reason other than the Company's repudiation of it.
- 8.7 The Buyer and/or any Affiliate may not suspend any order which has been accepted by the Company except with the agreement in writing of the Company. In the event of any suspension or termination for any reason whatsoever, the Buyer shall indemnify the Company against all loss including but not restricted to loss of profit, costs, damages, charges and expenses howsoever incurred by the Company as a result of such suspension or termination.
- 9. INSPECTION AND CLAIMS**
- 9.1 The Buyer and/or any Affiliate shall ensure a thorough inspection of the Goods is made immediately upon delivery and in any event before they are resold or otherwise dealt with by or on behalf of the Buyer and/or any Affiliate.
- 9.2 Claims in respect of defects or errors in quality or description or quantity reasonably discoverable on such an inspection shall be made within 24 hours of delivery by fax backed up by hard copy written notice in the post (in accordance with clause 18) and in the absence of such claim the Goods shall be deemed to have been delivered and accepted by the Buyer and/or any Affiliate complete and satisfactorily.
- 9.3 It is the Buyer's and/or any Affiliates entire responsibility to satisfy itself that the Goods are suitable for the purpose and/or conditions for which they are required.
- 10. WARRANTIES AND INDEMNITIES**
- 10.1 Except as expressly provided in these Terms, there is no representation, condition, warranty or term (whether in each case expressed, implied, statutory (as permitted under law), or otherwise) as to the quality or fitness for any purpose of the Goods or their correspondence in quality with any sample or description.
- 10.2 The Buyer and any Affiliate shall keep the Company fully and effectively indemnified at all times against all and any costs, claims, demands, losses or liabilities whatsoever brought or made against the Company or otherwise suffered or incurred by the Company arising directly or indirectly out of any infringement or alleged infringement of patents, trade marks, copyright, design right or other intellectual property right occasioned by the importation, manufacture or sale of the Goods if made to the specification or special requirements of the Buyer.
- 10.3 The Buyer and any Affiliate shall keep the Company fully and effectively indemnified against any loss or liability whatsoever which is suffered or incurred by the Company as a result of the acts or omissions of the Buyer, its employees or agents and/or any Affiliate in the course of collection of Goods from the Company.
- 10.4 Nothing herein shall have the effect of excluding or restricting the liability of the Company for death or personal injury resulting from its negligence or excluding or restricting its liability for fraud in so far as these are prohibited by United Kingdom Statute.
- 11. LIABILITY**
- 11.1 Where the Goods are alleged to be defective the Buyer and/or any Affiliate shall notify the Company pursuant to the provisions of clause 9 above and in any event as soon as practicable by fax followed by hard copy written notice in the post (in accordance with clause 18) and where possible shall afford to the Company an opportunity of examining the Goods before they are resold or otherwise dealt with and further:-
- 11.1.1 the Buyer and/or any Affiliate shall give the Company a reasonable opportunity of correcting any remedial defects or errors at the Company's own cost; and
- 11.1.2 the Buyer and/or any Affiliate shall at the Company's request and cost return to the Company on the basis that the Company will thereafter reimburse to the Buyer and/or any Affiliate the cost of such provided that it is reasonable; and
- 11.1.3 if the Buyer and/or any Affiliate agrees an amount with the Company in respect of such matters then such amount shall be accepted by the Buyer and/or any Affiliate in full and final settlement of all claims in respect of any such matters.
- 11.2 The Company's total liability (if any) in contract, tort, (including negligence or breach of statutory duty) or otherwise in connection with the Contract (except in relation to death or personal injury caused by the negligence of the Company or its employees whilst acting in the course of their employment to the Buyer and/or any Affiliate in respect of the Goods shall in all circumstances be limited at the Company's option either to give a refund of the amount paid by the Buyer and/or any Affiliate to the Company, or a reasonable credit or amount for those of the Goods proved to be defective or replacing them at the agreed point of delivery.
- 11.3 The Company shall not under any circumstances be liable to compensate the Buyer and/or any Affiliate for any:
- 11.3.1 loss of use, production, profit (direct or indirect);
- 11.3.2 any loss of business, contracts, revenues or anticipated savings;
- 11.3.3 any increase in operating costs or any other financial or economic loss;
- 11.3.4 any indirect or consequential loss or damage whatsoever
- 11.3.5 **personal injury (which is not caused by negligence)** whether sustained by the Buyer or any Affiliate or by any third party whether in contract, tort (including negligence and/or breach of Statutory duty as permitted under law) or otherwise in connection with these Terms.
- 11.4 In all cases it shall be the responsibility of the Buyer and/or any Affiliate to properly store, handle and generally deal with the Goods following the delivery in accordance with the food industry practices and food regulations which are from time to time applicable and the Company does not accept any liability in respect of any defects in the Goods arising as a result of the Buyer's and/or any Affiliate negligence or mishandling or that are discovered after the stated 'Best Before' date or in cases where there is physical evidence of damage to the packaging.
- 12. SET OFF**
- 12.1 The Buyer and/or any Affiliate shall pay all amounts due under this Contract or any other contract with the Company in full without any deduction or withholding except as required by law and the Buyer and/or any Affiliate shall not be entitled to assert any credit, set-off or counterclaim against the Company in order to justify withholding payment of any such amount in whole or in part. The Company may at any time without limiting any other rights it may have, set off any amount owing to it by the Buyer and/or any Affiliate against any amount payable by the Company to the Buyer and/or any Affiliate.
- 13. WAIVER**
- 13.1 Any concession, latitude, or waiver allowed by either Party to the other at any time shall not prevent such Party from subsequently exercising its full right under the Contract in other respects.
- 14. JURISDICTION AND COSTS**
- 14.1 The validity, construction and performance of these conditions and any contract between the Company and the Buyer and/or any Affiliate shall be subject to and be construed in accordance with English Law and the Buyer and/or any Affiliate shall submit to the exclusive jurisdiction of English Courts and specifically to the jurisdiction of the County or High Courts (as may be appropriate) nearest to the Company's premises.
- 15. INTERFERENCE**
- 15.1 The Buyer and/or any Affiliate shall not alter, obscure, remove, conceal, or otherwise interfere with any markings or other identification or source or origin place by the Company on the Goods or on their labelling or packaging.
- 16. THIRD PARTY RIGHTS**
- 16.1 If the Buyer and/or any Affiliate uses or sells the Goods in such a manner so as to incur liability to any third party then such liability shall be the sole responsibility of the Buyer and/or any Affiliate which shall indemnify the Company from and against any such liability.
- 16.2 The Buyer and/or any Affiliate shall not make any representations, warranties or guarantees with reference to Goods supplied by the Company except such as are consistent with these Terms.
- 17. SEVERANCE**
- 17.1 If any court or competent authority finds that any provision of these Terms (or part of any provision) are invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these Terms shall not be affected.
- 17.2 If any invalid, unenforceable or illegal provision of these Terms would be valid, enforceable and legal if some or any part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 18. NOTICE**
- 18.1 Any notice required or permitted to be given to the Company shall be in writing and addressed to the address provided belows or any other address previously provided as being that to which correspondence should be sent. Such notice should be sent by first class post and shall be deemed to have been received by the Company within 48 hours after the date of posting.
- 19. EXPORT TERMS**
- 19.1 In these conditions "Incoterms" means the International rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meanings in these Terms but if there is any conflict between the provisions of Incoterms and these Terms, the latter shall prevail.

