



**MOOVE LUBRICANTS LIMITED**  
**Terms and Conditions for the Supply of Products and Services**  
**(the "Terms")**

**Interpretation and Definitions**

Throughout these Terms, the following definitions apply:

**Seller** means Moove Lubricants Limited, an English company registered with Companies House under company number 02075698, with registered business address at Dering Way, Gravesend, Kent, DA12 2QX. The **Buyer** means the person, firm, or company who is purchasing lubricants and lubrication services from the Seller. The Seller and Buyer shall each individually be referred to as a party and together the parties.

**"Affiliate"** means any of the Seller's subsidiaries, affiliated companies and/or ultimate parent companies, in accordance with the relevant provision of the section 1162 Companies Act 2006 as updated and amended from time to time.

**"Business Days"** means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**"Contract"** means these Terms, the annexes to the Terms and any pricing letter agreement(s) or other written document(s) and/or agreements that are agreed between the parties of which these Terms are expressly made part of.

**"Confidential Information"** means the terms of this Contract, any Product Order, Service Request, and any information about Seller's business affairs, goods and services, and non-public information and materials comprising or relating to Seller's Intellectual Property Rights, trade secrets, or other sensitive or proprietary information disclosed hereunder, whether orally or in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential". Confidential Information shall include, without limitation: (i) patent and patent applications; (ii) trade secrets; (iii) proprietary and confidential information, ideas, techniques, sketches, drawings, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, algorithms, software programs, software source documents, and formulae related to the current, future, and proposed products and services of each of the Parties, such as information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, customer lists, investors, employees, business and contractual relationships, business forecasts, sales and merchandising, and marketing plans; and (iv) all other information that Buyer knew, or reasonably should have known, was Seller's Confidential Information.

**"Data Protection Legislation"** means (i) the Data Protection Act 1998, until the effective date of its repeal (ii) the General Data Protection Regulation ((EU) 2016/679) ("**GDPR**") and any national implementing laws, regulations and secondary legislation, for so long as the GDPR is effective in the UK, and (iii) any successor legislation to the Data Protection Act 1998 and the GDPR; or (iv) any other applicable data protection legislation anywhere in the world.

**"Deliverables"** means any output of the Services to be provided by Seller to Buyer as specified in writing and any other documents, products and materials provided by Seller to Buyer in relation to the Services (excluding Seller's equipment).

**"Export Laws"** the laws, regulations or orders of the United States of America, United Kingdom and European Union ("**EU**"), and any other jurisdiction applicable to the terms of this Agreement and performance thereof, imposing trade, financial or other economic sanctions on countries (including, but not limited to, the Russian Federation), individuals, or entities and/or regulating the export, re-export, import, transfer, disclosure, or any other means of direct or indirect provision, or end use, of the Products or Services..

**"Products"** means lubricants, ancillary products and/or chemicals as agreed between the parties

**"Proprietary Marks"** means any Moove, Comma, Cosan, or Seller's Affiliate or third-party trade names, service marks, trademarks, logos, emblems, trade dress, other indicia of origin and all other intellectual property rights as Seller may from time to time own or use or be licensed to use in connection with the Products and/or Services.

**"Restricted Party"** means any person (entity or individual) that is identified on any U.S. or EU restricted party list, including but not limited to the Specially Designated Nationals ("**SDN**") and Blocked Persons List ("**SDN List**"), maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") and any party owned fifty percent (50%) or more, individually or in the aggregate, by one or more SDNs; the Denied Persons, Unverified, and Entity Lists, maintained by the U.S. Department of Commerce; the Debarred Parties list and the Non-proliferation Sanctions List maintained by the U.S. State Department; the EU Consolidated List of Designated Parties, maintained by the European Union and any party majority owned or controlled by a Designated Party; lists of sanctioned parties maintained by EU Member States including, but not limited to, the Consolidated List of Assets Freeze Targets, maintained by HM Treasury (U.K.) and any party owned or controlled by a party subject to sanction pursuant to such lists; and the UN Consolidated List, maintained by the UN Security Council Committee.

**"Services"** means the services as may be specifically agreed and performed by Seller pursuant to these Terms.

All and any business undertaken by the Seller is transacted subject to the Terms hereinafter set out each of which shall be deemed incorporated in and to be a condition of any Contract between the Seller and the Buyer. The Buyer may only place an order, and the Seller may only accept an order for Products which is subject to these Terms.

These Terms shall have precedence over any terms and conditions appearing on the Buyer's order form or any other documents emanating from the Buyer, or its agents, and any such Buyer's conditions will have no effect unless accepted in writing by the Seller. These Terms shall be deemed to be incorporated in all documents emanating from the Seller and acceptance of delivery of Products from the Seller shall be conclusive evidence before any court or arbitrator that the Terms apply exclusively to the sale of such Products.

**Agency, Liability and Authority**

If the Buyer has accepted these Terms and therefore entering into a contract with the Seller as an agent on behalf of someone else, whether the Buyer disclose this agency to us or not, both the Buyer and its principal will be jointly and severally liable under these Terms. Similarly, if a Buyer's agent has accepted these Terms and therefore entering into a contract with the Seller on the Buyer's behalf then both the Buyer's agent and the Buyer will be jointly and severally liable to the Seller.

No agent or employee of the Seller has the Seller's authority to alter or vary these Terms unless confirmed by two Directors of the Seller in writing. The Buyer entering a transaction with the Seller expressly warrants that it is authorised to accept and accepts these Terms not only for itself but also as agent for and on behalf of all other persons who are or may thereafter become interested in the Seller's Products whether in whole or in part.

**1. SUPPLY OF PRODUCTS**

This section 1 and section 3 apply if Buyer is purchasing Products from Seller. It supersedes any other terms and conditions including but not limited to the terms of conditions under which Buyer usually does business.

**1.1 Ordering Process**

(a) Buyer may submit orders to Seller from time to time. It is the Buyer's responsibility to notify the Seller (by contacting its local Moove representative) of the grades and quantities of Products that the Seller should deliver, when the Buyer would like delivery and where the Buyer would like the Seller to deliver the Products. The Seller will then confirm to the Buyer whether these requirements are possible to be fulfilled and advise of an estimate of any additional charges as actual charges may vary from the estimate. All orders shall be subject to any limits that the Seller may have specified, for example in respect of maximum or minimum delivery quantities or lead time required by the Seller, and deliveries of any Products will be subject to availability.

(b) Each order constitutes an offer by Buyer to purchase the Products in accordance with these Terms. Buyer is responsible for ensuring that orders are complete and accurate. Orders will only be deemed to be accepted when Seller issues a written acceptance of the order, at which point a contract will come into existence.



(c) Each order submitted will be deemed to be a separate offer by Buyer to purchase the Products in accordance with these Terms, which Seller will be free to accept or decline at Seller's absolute discretion. The Seller will only be liable to the Buyer for fulfilling an order once an order is accepted in writing by the Seller.

(d) If an order is accepted, the Seller will supply, and Buyer will purchase such quantities of Products agreed between the parties in accordance with these Terms. Unless otherwise expressly agreed between the parties in writing, all Products will be supplied to Buyer on a non-exclusive basis.

### 1.2 Products

(a) The Products that Buyer will purchase from Seller shall be evidenced in writing, together with any other applicable information in respect of the Products.

(b) Any samples, drawings, descriptive matter, or advertising produced by the Seller and any descriptions of illustrations contained in the Seller's catalogue or brochures or other sales or marketing information are produced for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract between the Seller and the Buyer or have any contractual force.

(c) The Seller reserves the right to amend the formulation, labels and bottle designs of the Products from time to time, including, but not limited, for reasons of compliance with applicable statutory, regulatory or other industry requirements.

### 1.3 Prices of the Products

(a) The Buyer agrees to pay the price agreed in writing between the parties or (in the absence of agreement) the price as notified to the Buyer by the Seller from time to time, for the grade and location in questions for all deliveries of Products that the Seller makes to you as well as any relevant additional charges such as freight, delivery, handling and surcharges as appropriate applicable at the time of delivery. Wherever possible, the Seller will aim to advise or remind the Buyer of such additional charges although it is the Buyer's responsibility to inform itself of such additional charges.

(b) The Buyer agrees to pay the Seller any additional charges that the Seller incurs if the Seller cannot deliver the Products at the time agreed between the parties by reason of any fault of its own as well as any expenses and losses incurred by the Seller as a result of the Buyer (or its representative) refusing to accept (either partly or completely) any amount of the Products ordered.

(c) All amounts quoted by the Seller or agreed in writing between the parties will be exclusive of any applicable taxes or duties (unless otherwise stated in our quotation). Any applicable taxes or duties will be for the Buyer's account.

### 1.4 Delivery of the Products

(a) If the Products are to be delivered within the UK, then Seller will deliver the Products CPT (Incoterms 2020) to a destination agreed between the Parties in writing or, if the Contract expressly states otherwise, to such other location as the Parties may expressly agree ("Delivery Location").

(b) If the Products are to be delivered outside the UK, then Seller will deliver the Products under EXW (Incoterms 2020) to the Delivery Location.

(c) Delivery of the Products will be completed on the arrival of the Products at the Delivery Location.

(d) Any dates quoted for delivery are approximate only and the time for delivery is not of the essence. Seller will not be liable for any delay in delivery of the Products that is caused by Buyer's failure to accept delivery or failure to provide Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Products. For the avoidance of doubt, Seller will not pay any penalty charges to Buyer if an order is delivered later than the estimated time for delivery.

(e) Buyer will be responsible for providing safe facilities or transportation for the Products at the Delivery Location.

(f) Seller reserves the right not to deliver Products if at or immediately prior to Delivery, at Seller's exclusive discretion, Seller deems the storage facilities at the Delivery Location unsafe.

(g) Seller reserves the right to carry out Seller's obligations hereunder through Seller's Affiliates and/or Seller's contractors.

(h) Seller reserves the right not to accept any order or make deliveries which are below Seller's advised minimum order value or minimum order

quantity. In addition, Seller reserves the right to levy a charge for special deliveries or deliveries below Seller's advised minimum order value or minimum order quantity.

(i) In the case of bulk Product deliveries, Buyer will be responsible for ensuring that there will be, at the time of each bulk delivery to Buyer's premises, sufficient ullage in that installation.

(j) If, at Buyer's request and Seller's consent, any delivery of the Products is made to any third party or a related company to Buyer, Buyer will be liable to pay for such supply of Products. Any order given by Buyer for deliveries to third parties or related companies, will always be deemed to be orders from Buyer.

(k) Seller may deliver the Products by instalments, which will be invoiced and paid for separately. Each instalment will constitute a separate contract. Any delay or defect in an instalment will not entitle Buyer to cancel any other instalment.

(l) If Seller fails to deliver the Products, Seller's liability will be limited to the costs and expenses incurred by Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Products. Seller will have no liability under this Contract for any failure to deliver the Products to the extent that such failure is caused by any event described in clause 3.7 or Buyer's failure to accept delivery or failure to provide Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.

(m) If Buyer fails to accept delivery of the Products within three (3) Business Days of Seller notifying Buyer that the Products are ready, then, except where such failure or delay is caused by any event described in clause 3.7 or Seller's failure to comply with Seller's obligations under the Contract:

(i) delivery of the Products will be deemed to have been completed at 9.00 AM on the third Business Day after the day on which Seller notified Buyer that the Products were ready; and

(ii) Seller will store the Products until delivery takes place, and charge Buyer for all related costs and expenses (including but not limited to insurance and transport).

(n) If Buyer has not accepted delivery of the Products within ten (10) days after the day on which Seller notified Buyer that the Products were ready for delivery, Seller may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to Buyer for any excess over the price of the Products or charge Buyer for any shortfall below the price of the Products.

(o) The parties agree that if, in respect of an order, Seller delivers more or less than the quantity of Products ordered, Buyer will not be entitled to reject the order, but a *pro rata* adjustment will be made to the order invoice. For the avoidance of doubt, Seller will not be liable to pay any penalty charges to Buyer if the quantity of Products delivered is below or above the ordered quantity.

### 1.5 Health, Safety and Environmental Protection

Health, safety and the environment are very important to the Seller. As such:

(a) The Seller will provide the Buyer with Products' health, safety and environmental information, including Safety Data Sheets for all of the Products purchased by the Buyer from the Seller. Copies of all published HSE information can be requested from your local Moove representative. The Buyer agrees to pass this information on to all of its employees, subcontractors, customers or other users of the Products and ensure, so far as it is within its power to do so, that each of these people comply with all the requirements and recommendations contained in the information;

(b) The Buyer agrees to follow all the requirements and recommendations set out in the HSE information and obey all relevant health, safety and environmental obligations contained in any international law or law of any country (or state, territory or jurisdiction) where the Products are sold, resold or handled;

(c) The Buyer will comply fully with all the relevant local requirements at the delivery point, including those relating to fire, loss or spillage of the lubricants.

(d) If an escape, spillage, discharge of Products, accident or any emergency incident (the "Spill") occurs while or after Products are being delivered to Buyer hereunder, Buyer shall notify the Seller as soon as possible and



promptly take such actions necessary to remove the Products and mitigate the effects of such Spill. If the Buyer does not take the aforementioned steps, the Seller may, at its sole discretion, but at your cost, take whatever action that it considers necessary to remove the Spill and mitigate its effects. The Seller may also take whatever steps it considers necessary to mitigate the effects of any other scenario which may jeopardise the health and safety of personnel. To do so the Seller will employ its own resources or contract with third parties, the cost to be met by the Buyer should the Buyer causes the Spill. The Buyer shall cooperate with the Seller with the view of achieving a resolution to any spills or incidents and provide as soon as possible the documents and information that may be requested by the Seller.

#### **1.6 Title and Risk of Loss**

(a) Risk of loss or damage to any Products delivered by Seller to Buyer pursuant to this Contract will pass to Buyer in accordance with the applicable agreed Incoterm (2020).

(b) Title or property in Products will not pass to Buyer and legal ownership therein will remain vested in Seller until payment of the invoice price and all other sums due and owing from Buyer to Seller on any account whatsoever is received in full and cleared funds. Until such time, Seller will be entitled to recover and/or resell the Products or any part thereof.

(c) Until title to the Products has passed to Buyer, Buyer will:

(i) hold the Products on a fiduciary basis as Seller's bailee;

(ii) store the Products separately from all other goods held by Buyer so that they remain readily identifiable as Seller's property;

(iii) not remove, deface, or obscure any identifying mark or packaging on or relating to the Products;

(iv) maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and

(v) give Seller such information relating to the Products as Seller may require from time to time.

(d) If before title to the Products passes to Buyer, Buyer becomes subject to any of the events listed in clause 3.3(b), or Seller reasonably believes that any such event is about to happen and notify Buyer accordingly, then, provided the Products have not been resold or irrevocably incorporated into another product (and without limiting any other right or remedy Seller may have) Seller may at any time require Buyer to deliver up the Products to Seller and, if Buyer fails to do so promptly, Seller may enter any of Buyer's premises or the premises any third party where the Products are stored in order to recover them.

#### **1.7 Measurements**

Seller's measurements of quantity shall be accepted by Buyer (save for manifest error).

#### **1.8 Product Warranties**

(a) Seller warrants that Products purchased under this Contract will meet the specifications set out in Seller's Products data sheets (or such other specifications as are agreed between Buyer and Seller in writing) at the time such Products depart from Seller's plants and facilities. Seller's Products data and material safety data sheets are available at <https://mooveeurope.com/about-us> ("SDS"). Buyer will be deemed to have read and understood the SDS. Seller gives no guarantees or warranties, express or implied, as to the quality, merchantability, fitness or suitability of Products for any particular purpose or otherwise, except that Products sold hereunder will meet the agreed specifications as set out in the SDS. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

(b) Seller may, at any time, discontinue production/sale of any Product, change the grade, specifications, characteristics, delivery package, brand name, trademark or other distinctive designation of any Products and such Products, as so changed, will remain subject to this Contract, unless otherwise agreed between the parties.

#### **1.9 Products: Proprietary Marks**

(a) If applicable and as expressly agreed in writing between the parties, Buyer agree to use and display the Proprietary Marks or Seller's or Seller's Affiliates' service marks (which include the words "Moove", and/or all other brands supplied by Seller) only in such manner as may be prescribed by Seller and/or Seller's Affiliates from time to time and not to use the

same in such a manner as will bring Seller or any Affiliate or any third party who has licensed the Proprietary Marks to Seller or their names into disrepute and not use or display the same except in connection with the express limitation and agreement of the parties during the term of the Contract.

(b) Buyer acknowledges and understands that some Products are sold by Seller under license (such as Mobil branded products from ExxonMobil Petroleum & Chemical BVBA, "Winter" products under license from BASF and Duckhams branded products), and that the terms of such licences to Seller place stringent obligations on the use of such trademarks, any breach of which may result in a claim against Buyer. Buyer agrees to fully comply with applicable brand/trademark guidelines (as notified by Seller from time to time) and to indemnify Seller for any acts or omissions by Buyer, Buyer's employees, officers, agents and distributors which results in a liability to Seller under such licenses.

(c) Buyer will use the Proprietary Marks and any of Seller's signs only for the purposes of identifying, advertising and promoting the Seller and advertising, promoting and selling the Products, and will not use the Proprietary Marks and any of Seller's signs for any other purpose whatsoever.

(d) Buyer's right to use the Proprietary Marks under this Contract is non-exclusive and does not include the right to sublicense. Seller may use and may grant others the right to use the Proprietary Marks for any purpose.

(e) Buyer acknowledges that Seller, and/or one or more of Seller's Affiliates or licensors, are the sole and exclusive owners of the Proprietary Marks and no act or failure to act by Seller or Seller's Affiliates or licensors will give Buyer any ownership interest or right in or to the Proprietary Marks. All goodwill resulting from the use of the Proprietary Marks by Buyer will be for the benefit, and is the property, of Seller or one or more of Seller's Affiliates or licensors. Seller may at any time change or delete any Proprietary Marks and/or advertising used in connection with Products.

(f) Buyer must comply with Seller's instructions as regards the branding and use of Proprietary Marks that may be given at any time; and hereby agrees to grant Seller and Seller's nominees rights of access at any time to Buyer's premises to audit and inspect the use of the Proprietary Marks.

#### **1.10 Product Claims**

(a) Buyer must inspect all Products upon Delivery and, if applicable, notify Seller in writing of any damage or quantity claims or failure to receive Products as soon as possible, but in any event no later than seven (7) days following the date of delivery. Notwithstanding such notice, Seller reserves the right not to accept any claims if the delivery documents are not endorsed with details of the claim.

(b) In the event of a claim for damage to packaging, Buyer are required to retain the packaging/Products for inspection by Seller. For any quality claims relating to bulk deliveries, Buyer should retain samples of Products delivered.

(c) Buyer may not return any Product without Seller's prior written approval. Seller reserves the right to levy a handling charge over the invoice value of the Products concerned.

(d) Buyer will only be entitled to return damaged or defective Products and not all Products delivered as part of an Order.

(e) Any claim in connection with the Products is subject to clause 3.4.

#### **2. SUPPLY OF SERVICES**

This section 2 and section 3 apply if Seller are providing Services to Buyer. It supersedes any other terms and conditions including but not limited to the terms of conditions under which Buyer usually does business.

##### **2.1 Services**

(a) Details of the Services that Seller will provide shall be agreed in writing between the parties.

##### **2.2 Charges and costs of the Services**

(a) Where the Seller provides to the Buyer any additional services, the Buyer will pay the Seller the charges for those services as agreed between the parties. All amounts quoted by the Seller or agreed in writing between the parties will be exclusive of any applicable taxes or duties (unless otherwise stated in our quotation). Any applicable taxes or duties will be for the Buyer's account.



### 2.3 Service Request

(a) Unless agreed otherwise with Seller in writing, Seller will provide the Services to Buyer on a non-exclusive basis.

(b) Seller will provide Services as agreed in writing between the parties in accordance with these Terms (the “Service Request”).

(c) Each Service Request constitutes an offer by Buyer to request and pay for the Services that will be provided by Seller in accordance with these Terms. Buyer is responsible for ensuring that Service Requests are complete and accurate. Service Requests will only be deemed to be accepted when Seller issues a written acceptance of the Service Request. Seller reserves the right to accept or decline a Service Request at Seller’s absolute discretion.

### 2.4 Our Service Responsibilities

(a) Seller will use commercially reasonable endeavours to manage and complete the Services, and deliver the Deliverables to Buyer, in accordance with these Terms in all material respects.

(b) Seller will use reasonable endeavours to meet any performance dates agreed between the parties, but such dates will be estimates only and time for Seller to perform the Services is not of the essence.

(c) Seller will appoint a manager for the Services, such person as identified in the Service Request. That person will have authority to contractually bind Seller on all matters relating to the Services. Seller will use all reasonable endeavours to ensure that the same person acts as Seller’s manager but may replace that person from time to time where reasonably necessary in the interests of Seller’s business.

(d) Seller will use reasonable endeavours to observe all health and safety and security requirements that apply at any of Buyer’s premises and that have been communicated to Seller under clause 2.5(a)(v), provided that Seller will not be liable if, as a result of such observation, in breach of any of Seller’s obligations.

### 2.5 Buyer’s Service Obligations

(a) Buyer will:

(i) co-operate with Seller in all matters relating to the Services;

(ii) appoint a manager for the Service. This person will have the authority to contractually bind Buyer on matters relating to the Services;

(iii) provide Seller, Seller’s agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to Buyer’s premises, office accommodation, data and other facilities as reasonably required by Seller including any such access as is specified in the Service Request;

(iv) provide to Seller in a timely manner all documents, information, items and materials in any form (whether owned by Buyer or third party) required under the Service Request or otherwise reasonably required by Seller in connection with the Services and ensure that they are accurate and complete in all material respect;

(v) inform Seller of all health and safety and security requirements that apply at any of Buyer’s premises;

(vi) ensure that all Buyer’s equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant UK standards;

(vii) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable Seller to provide the Services, including in relation to the installation of Seller’s equipment, the use of all Buyer’s materials and the use of Buyer’s equipment insofar as such licences, consents and legislation relate to Buyer’s business, premises, staff and equipment, in all cases before the date on which the Services are to start; and

(viii) keep, maintain, and insure Seller’s equipment in good condition and in accordance with Seller’s instructions from time to time and will not dispose of or use Seller’s equipment other than in accordance with Seller’s written instructions or authorisation.

(b) If Seller’s performance of Seller’s obligations is prevented or delayed by any act or omission by Buyer, Buyer’s agents, subcontractors, consultants, or employees, then, without prejudice to any other right or remedy Seller may have, Seller will be automatically granted an extension of time to perform its, such extension to be equal to the delay caused directly or indirectly by Buyer.

### 2.6 Services: Proprietary Rights

(a) In relation to the Deliverables:

(i) Seller and Seller’s licensors will retain ownership of all Proprietary Rights in the Deliverables (excluding Buyer’s materials);

(ii) Seller grants Buyer—or will procure the direct grant to Buyer of—a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy and modify the Deliverables (excluding Buyer’s materials) for the sole and exclusive purpose of receiving and using the Services and the Deliverables in Buyer’s business; and

(iii) Buyer will not sub-license, assign or otherwise transfer the rights granted in clause 2.6(a)(ii), any such sub-license, assignment, or transfer shall be void.

(b) In relation to Buyer’s materials, Buyer:

(i) and Buyer’s licensors will retain ownership of all proprietary in Buyer’s materials; and

(ii) grants Seller a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify Buyer’s materials for the term of the Contract for the purpose of providing Buyer the Services.

(c) Buyer:

(i) warrants that the receipt and use of Buyer’s materials in the performance of the Contract by Seller, Seller’s agents, subcontractors, or consultants will not infringe the rights, including any intellectual property rights, of any third party; and

(ii) will indemnify Seller in full 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 costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Seller arising out of or in connection with any claim brought against Seller, Seller’s agents, subcontractors or consultants for actual or alleged infringement of a third party’s intellectual property rights arising out of, or in connection with, the receipt or use in the performance of the Contract of Buyer’s materials.

### 2.7 Service Warranties

(a) Seller will perform the Services in a competent manner, with reasonable skill and care, in conformity with any requirements of applicable law.

(b) Seller will perform the Services as an independent consultant and in an advisory capacity. The full responsibility for any use made of the Services shall rest exclusively with Buyer.

### 2.8 Service Claims

(a) Buyer must notify Seller as soon as possible during the provision of Services, but in any case, no longer than fourteen (14) days after the provision of Services, through a written notice with detailed information if the Services do not meet the agreed standard.

(b) If Seller agrees that the Services do not meet the agreed standard, then subject to Seller’s discretion, Seller may refund the price paid by Buyer for the Services or provide Buyer with the same Services without a charge. The remedies set out in this clause 2.8 shall be Buyer’s sole and exclusive remedies if the Services do not meet the agreed standard.

(c) Any claim in connection with the Services is subject to clause 3.4.

## 3. GENERAL

### 3.1 Conflict

(a) If there is an inconsistency between the provisions of:

(i) these Terms;

(ii) the Order and/or Service Request; and/or

(iii) other written document(s) and/or agreement(s) that are agreed between the parties,

then the provisions contained in a document higher in the list above will have priority over ones contained in a document lower in the list.

### 3.2 Payment

(a) Unless otherwise agreed or stipulated by Seller, payment of full invoiced amounts, without withholding and/or setoff will be made by or on behalf of Buyer and received by Seller:

(i) in Pounds Sterling (or other currency as agreed by Seller in writing) without discount, deduction or setoff; and

(ii) on the settlement date shown on the invoice; and

(iii) by direct debit, electronic transfer of funds to a bank or any other method in accordance with Seller’s written instructions.



(b) Seller reserves the right to increase prices and/or pricing terms, to modify and/or terminate credit arrangements and/or require payment before delivery or require suitable security, at any time and for any reason, upon written notice to Seller. Seller reserves the right to include additional charges for deliveries outside Great Britain. Pricing will be set by Seller and no other person or organisation acting as agent for Seller or otherwise has authority to vary any prices or terms of the Contract other than Seller. Subject to clause 3.10(a)(iii), any such notice will be binding on the parties from the date of service of such notice.

(c) Seller may suspend deliveries if any payment or part(s) thereof is not made when due.

(d) Without prejudice to any of Seller's other rights, Seller will be entitled to set-off and/or apply, in satisfaction of any obligation owing hereunder by Buyer, the amount of any monies which may then be received or thereafter be or become owing from Seller to Buyer.

(e) Seller also reserves the right to charge a late payment charge at a rate that is the highest between (i) the base rate as quoted by the Bank of England plus five percent (5%) and (ii) the base rate quoted by the Bank in Buyer's country of residence plus five percent (5%), compounding and being added to the principal sum outstanding on a monthly basis. The interest period will run from the due date for payment until Seller's receipt of the full amount whether before or after judgment and without prejudice to any of Seller's other rights or remedies.

(f) Payment will be deemed to have been made on the date cleared funds are first available for use by Seller or in Seller's account at Seller's designated bank.

(g) If Buyer is part of a buying group and/or acts through an agent, or if Buyer is the administrating entity of the buying group and/or agent as applicable in all cases and in addition to Buyer's liability under this Contract, Buyer will and undertakes to procure that the individual members of the buying group or principals Buyer are acting for will, in addition to Buyer, be liable for all payment and/or other contractual obligations to Seller.

### 3.3 Buyer's Insolvency or Incapacity

(a) If Buyer becomes subject to any of the events listed in clause 3.3(b), or Seller reasonably believes that Buyer are about to become subject to any of them (or any similar or analogous events occurring in any other jurisdiction) and notifies Buyer accordingly, then, without limiting any other right or remedy available to Seller, Seller may cancel or suspend all further deliveries under the Contract or under any other contract between Buyer and Seller without incurring any liability to Buyer, and all outstanding sums in respect of Products delivered to Buyer will become immediately due.

(b) For the purposes of clause 3.3(a), the relevant events are:

(i) Buyer suspends, or threatens to suspend, payment of Buyer's debts, or Buyer is unable to pay Buyer's debts as they fall due or admit inability to pay Buyer's debts, or (being a company) deemed unable to pay Buyer's debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) deemed either unable to pay Buyer's 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) have any partner to whom any of the foregoing apply;

(ii) Buyer commences negotiations with all or any class of Buyer creditors with a view to rescheduling any of Buyer's debts, or makes a proposal for or enters into any compromise or arrangement with Buyer's creditors other than (where Buyer are a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of Buyer with one or more other companies or Buyer's solvent reconstruction;

(iii) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with Buyer's winding up, other than for the sole purpose of a scheme for Buyer's solvent amalgamation with one or more other companies or Buyer's reconstruction;

(iv) (being an individual) Buyer are subject of a bankruptcy petition or order;

(v) Buyer's creditor or encumbrancer 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 Buyer's assets and such attachment or process is not discharged within fourteen (14) days;

(vi) (being a company) 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 Buyer;

(vii) (being a company) a floating charge holder over Buyer's assets has become entitled to appoint or has appointed an administrative receiver;

(viii) a person becomes entitled to appoint a receiver over Buyer's assets or a receiver is appointed over Buyer's assets;

(ix) any event occurs, or proceeding is taken, with respect to Buyer in any jurisdiction to which Buyer are subject that has an effect equivalent or similar to any of the events mentioned in clause 3.3(b)(i) to clause 3.3(b)(viii) (inclusive);

(x) Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of Buyer's business;

(xi) Buyer's financial position deteriorates to such an extent that in Seller's opinion Buyer's capability to adequately fulfil Buyer's obligations under the Contract has been placed in jeopardy; and

(xii) (being an individual) Buyer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing Buyer's own affairs or become a patient under any mental health legislation.

### 3.4 Claims

Any legal action brought by Buyer will be time-barred unless commenced within six (6) months following the date of delivery of the Products and/or Services. This provision will survive any termination of this Contract.

### 3.5 Compliance with Laws and Policies

(a) Notwithstanding anything in the Contract to the contrary, no provision should be interpreted or applied to require Seller to do, or refrain from doing, anything which would constitute a violation, or result in a loss of economic benefit under the United States Anti-Boycott and/or other Export Laws.

(b) Buyer acknowledges that the export (including the deemed export of technology and source code), re-export, transfer, release or other provision (collectively, "Onward Provision") of the Products and/or Services provided by Seller or Seller's Affiliates may be subject to restrictions under Export Laws and/or other applicable laws within jurisdictions applicable to the terms of this Contract and performance thereunder.

(c) Buyer shall not take and shall procure that Buyer's Affiliates (as well as any officers, directors, employees, consultants, agents, or sub-contractors or any other person acting for or on behalf of Buyer or Buyers Affiliates) shall not take, any action, directly or knowingly indirectly, that would cause Seller to be in violation of any applicable laws including, but not limited to, Export Laws.

(d) Buyer shall defend, indemnify, and hold harmless Seller and Seller's Affiliates from and against all claims and liabilities relating to the Onward Provision of any Products and/or Services provided by Seller or Seller's Affiliates under the terms of this Contract directly or indirectly by or through Buyer or Buyer's Affiliates:

(i) under or arising from Export Laws; or

(ii) in relation to trademark or copyright infringement, or non-compliance with labelling, product specification or advertising requirements, directly or indirectly under applicable U.S. laws or the applicable laws of any other applicable jurisdiction (including with extra territorial application).

(e) Buyer represents and warrants that neither Buyer, nor Buyer's Affiliates, nor any person that owns or controls Buyer or Buyer's Affiliates, is a Restricted Party, or is subject of any other targeted sanctions restrictions or designations, under Export Laws.

(f) In connection with this Contract, Buyer warrants that neither Buyer nor Buyer's Affiliates, nor any officers, directors, employees, consultants, agents, or sub-contractors or any other person acting for or on behalf of Buyer or Buyers Affiliates, shall engage in any corrupt practices (including improper payments), fraud, bribery, deception or similar financial or procedural wrongdoing ("Improper Conduct"), or any activity that would reasonably be considered as Improper Conduct, that is prohibited under the applicable laws of any jurisdiction applicable to the terms of this



Contract or performance thereunder (including with extra territorial application) including, but not limited to, the UK Bribery Act 2010.

(g) Each Party will exercise reasonable care and diligence to prevent Improper Conduct. The Parties' effort will include, but will not be limited to, establishing precautions to prevent their respective officers, directors, employees, consultants, agents, or sub-contractors, or any other person acting for or on behalf of the Party, from making, receiving, providing or offering substantial gifts, extravagant entertaining, payments, loans or other considerations for the purpose of influencing any individual to act contrary to any Party's best interests with respect to this Contract.

(h) Buyer shall implement and maintain adequate procedures to monitor its upstream and downstream value chain to ensure compliance with applicable laws and regulations, including but not limited to Export Laws. Such procedures shall include, but are not limited to, conducting due diligence on suppliers, customers and intermediaries. In the event Buyer becomes aware of any violation or potential violation of applicable law, including Export Laws, it shall promptly notify Seller in writing. Buyer shall cooperate fully with Seller to investigate and address any such violations. Buyer shall, upon Seller's request, promptly provide Seller with any information, documentation, or certifications necessary to demonstrate compliance with applicable laws, sanctions and Export Laws or required pursuant to any investigatory or legal proceedings.

(i) This clause shall survive the termination or expiration of this Contract and any related contracts.

### **3.6 Insurance**

Each party severally warrants that it has in place all relevant and necessary insurance required for the performance of its obligations under this Contract.

### **3.7 Force Majeure and Allocation**

(a) Neither party will be liable for any failure to fulfil any term of this Contract if fulfilment is delayed, hindered or prevented in whole or in part by any circumstances whatsoever which are not within its reasonable control, including but without limitation to the generality of the foregoing: (i) strikes, lockouts, labour disputes of any kind, partial or general stoppages of labour (including working to rule), refusals to perform any kind of work (whether or not any of the foregoing are lawful, or relate to that party's own employees or others);

(ii) war, hostilities, terrorist activity (actual and/or perceived), or any local, national or international emergency;

(iii) any regulation, order or request of, or interference by, or restriction imposed by any international, national, provincial, port or other public authority or any person purporting to act for such authority;

(iv) breakdown of or accident to plant, machinery or facilities;

(v) failure of or hindrances to transportation;

(vi) in Seller's case, failure of or shortage in any of Seller's or Seller's suppliers' existing or contemplated sources of supply of Products or of the crude petroleum or other feedstock from which Products is derived, or any reduction in Seller's stocks thereof (for whatever reason) below levels which Seller in Seller's absolute discretion consider necessary; or

(vii) the threat or reasonable apprehension of any of the foregoing events.

(b) Regardless of the application of any such circumstance affecting Seller's fulfilment of any term of this Contract Seller will be at liberty to withhold, reduce or suspend deliveries hereunder to such extent as in Seller's absolute discretion may think fit and in particular (without limitation to the generality of the foregoing, and subject to Seller's operating requirements) to allocate on any fair and reasonable basis according to Seller's discretion between Seller's customers (including Buyer) such Products as may be available to Seller in the ordinary and usual course of Seller's business and to effect deliveries thereof at such times and in such manner as Seller may decide.

### **3.8 Indemnity**

Buyer will hold harmless and indemnify and keep Seller and/or Seller's Affiliates' indemnified in full on demand against all claim(s), loss(s), damage(s) and liability(s) arising from or in consequence of any acts and/or omissions by Buyer and/or Buyer's employee(s), servant(s), officer(s), agent(s) and/or representative(s) in connection with obligations under this Contract.

### **3.9 Limitation of Liability**

(a) Nothing in these Terms will limit or exclude either party's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable) or: (a) fraud or fraudulent misrepresentation; (b) breach of the terms implied by section 12 of the Sale of Products Act 1979; (c) defective products under the Consumer Protection Act 1987; or (d) any matter in respect of which it would be unlawful for Seller to exclude or restrict liability.

(b) Subject to clause 3.9, Seller will under no circumstances whatsoever be liable to Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for: (a) any loss or damage to (i) profit; (ii) revenue; (iii) data; (iv) business; (v) use; or (vi) goodwill; or (b) any indirect or consequential loss or damage arising under, out of or in connection with the Contract or the supply of any Products and Services.

(c) Seller's total liability to Buyer in respect of all other losses arising under or in connection with any consignment or instalment of Products and/or provision of Services under this Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, will in no circumstances exceed the lower of:

(i) five hundred thousand pounds (£500,000.00); or

(ii) one hundred percent (100%) of the price of the Products that are the subject of that particular consignment or instalment of Products or the fees of the Services paid to Seller prior to the date of the claim (as applicable).

(d) Seller will not be liable for any damage to any of Buyer's property or the property of third parties caused by faulty containers or mishandling of Products by Buyer or due to causes beyond Seller's control.

### **3.10 Termination**

(a) Seller may either suspend the performance of, or terminate this Contract immediately by giving written notice to Buyer if:

(i) any sum payable under this Contract is not paid by the due date;

(ii) Buyer or one of its Affiliates breaches clause 3.5, which the Parties agree would constitute a material breach of this Contract; and/or

(iii) if Seller are unable to recover any increases in Seller's costs for any Products by an increase in Seller's prices charged to Buyer.

(b) Subject to clause 3.10(c), either party will be entitled forthwith to terminate this Contract by written notice to the other if:

(i) the other party commits any continuing or material breach of any of the provisions of this Contract and, in the case of such a breach which is capable of remedy, fails to remedy the same within thirty (30) days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or

(ii) the other party is subject to one of more of the events in clause 3.3(b).

(c) Buyer will only be entitled to terminate the Contract in accordance with clause 3.10(b) after Seller completes the supply of Products and/or the provision of Services.

(d) Notwithstanding any clause(s) in this Contract, Seller will have the right to terminate this Contract at any time by giving Buyer three (3) months' notice in writing.

(e) Termination of this Contract will be without prejudice to either party's rights in respect of Products delivered hereunder prior to the date of termination and in respect of any antecedent breaches.

(f) In the event that the Contract is terminated:

(i) all sums due to Seller on any account whatsoever will immediately become due and owing by Buyer to Seller regardless of agreed and/or applied credit terms under this Contract; and

(ii) Buyer will immediately cease to make use of Seller's Proprietary Marks.

(g) No remedy referred to herein is intended to be exclusive, but each will be cumulative and in addition to any other remedy referred to herein or otherwise available at law or in equity.

### **3.11 Consequences of Termination**

(a) On termination of the Contract for any reason:

(i) Buyer will immediately pay to Seller all of Seller's outstanding unpaid invoices and interest and, in respect of Products or Services supplied but for which no invoice has yet been submitted, Seller will submit an invoice, which will be payable by Buyer immediately on receipt;

(ii) Buyer will return all the Products which have not been fully paid for. If Buyer fails to do so, then Seller may enter Buyer premises and take



possession of them. Until they have been returned, Buyer will be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

(iii) the accrued rights and remedies of the parties as at termination will 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

(iv) clauses which expressly or by implication have effect after termination will continue in full force and effect.

(b) On termination of the Contract for under clause 3.10(a)(ii), Seller shall be entitled to seek appropriate remedies in contract and at law as it deems fit against the Buyer.

### 3.12 Confidential Information

(a) During the Term and for five (5) years thereafter, Buyer will treat this Contract as confidential and will not disclose its contents and/or any Confidential Information to any third party, except to Buyer's affiliates who need to know such Confidential Information for the purposes of this Contract and who are themselves bound by confidentiality obligations at least as restrictive as provided herein. Buyer will ensure, and accept responsibility for the compliance by, Buyer's employees, officers, representatives or advisors to whom Buyer disclose Seller's Confidential Information must comply with this clause 3.12.

(b) Buyer will not use Seller's Confidential Information for any other purpose other than to exercise Buyer's rights and perform Buyer's obligations under or in connection with this Contract.

(c) Buyer must promptly notify Seller in the event of any loss or unauthorised disclosure of any Confidential Information.

(d) Upon termination or expiration of this Contract, or upon Seller's written request, Buyer will (or will cause each of Buyer's affiliates to) within five (5) Business Days, return to Seller, or destroy, and confirm to Seller in writing that Buyer has returned or destroyed all documents and other tangible materials representing Seller's Confidential Information and all copies thereof except as may be required by law; provided that any information retained shall be accessed solely by Buyer's information technology personnel or regulatory and compliance personnel in each case solely for compliance with applicable law.

(e) Buyer acknowledges and agrees that:

(i) a breach or threatened breach by Buyer of any of its obligations under this clause 3.12 could cause irreparable harm to Seller for which monetary damages would not be an adequate remedy; and

(ii) in the event of a breach or a threatened breach by Buyer of any such obligations, Seller shall, in addition to any and all other rights and remedies that may be available to it at law, in equity or otherwise in respect of such breach, be entitled to seek equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction.

(f) This clause 3.12 will survive termination of the Contract.

### 3.13 Law and Jurisdiction and Third Parties

(a) Except as otherwise agreed between the parties, this Contract will be governed by and construed in accordance with the laws of England & Wales and parties agree to submit to the exclusive jurisdiction of the Courts of England.

(b) Nothing in this Contract will be considered or construed as conferring any right or benefit on a person not a party to this Contract and the parties do not intend that any term of this Contract should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999 or the jurisdictional equivalent, by any person who is not a party to this Contract.

### 3.14 Non-Waiver and Severability

(a) A waiver of any right under this Contract is only effective if it is in writing and will 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 will 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 will 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.

(c) Should any provision hereof be finally determined to be inconsistent with or contrary to applicable law, such provision will be deemed to be amended or omitted to conform therewith without affecting any other provisions or the validity of this Contract.

### 3.15 Data Sharing and Data Protection

(a) This clause 3.15 together with Seller's privacy policy explains how Seller will treat and protect Buyer's personal data obtained under the Contract.

(b) The terms "data subject", "data controller", "data processor", "processing" and "personal data" bear the respective meanings given them in the Data Protection Legislation.

(c) Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation (the "General Obligations").

(d) Without prejudice to the General Obligations, if Seller processes any personal data on Buyer's behalf when performing its obligations under the Contract, the parties record their intention that Buyer will be the data controller and Seller will be a data processor.

(e) Without prejudice to the General Obligations:

(i) Buyer will ensure that they have all necessary appropriate consents and notices in place as required by the Data Protection Legislation to enable the lawful transfer of personal data to Seller and third parties that Seller work with to provide the Products for the duration and purposes of this Contract, so that Seller and the third parties Seller work with may lawfully use, process, store and transfer the personal data in accordance with this Contract on Buyer's behalf; and

(ii) Buyer acknowledges that the processing, transferring, and storage of its personal data is necessary to enable Seller to provide the Products in accordance with the Contract.

(f) Without prejudice to the General Obligations, Seller will in relation to any personal data processed in connection with Seller's performance of Seller's obligations under the Contract:

(i) process that personal data only on Buyer's written instructions, unless Seller are required by the laws of any member of the European Union or by the laws of the European Union applicable to Seller to process personal data ("Applicable Laws"). Where Seller is relying on laws of a member of the European Union or European Union law as the basis for processing personal data, Seller will promptly notify Buyer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Seller from notifying Buyer;

(ii) ensure that:

(A) Seller is processing personal data in a territory which is subject to a current finding by the European Commission under the Data Protection Legislation that the territory provides adequate protection for the privacy rights of individuals; or

(B) Seller participates in a valid cross-border transfer mechanism under the Data Protection Legislation, so that Seller (and, where appropriate, Buyer) can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of individuals as required by Article 46 of the GDPR; or

(C) the transfer otherwise complies with the Data Protection Legislation;

(iii) ensure that Seller has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by Seller);

(iv) ensure that access to Buyer's data to meet Seller's obligations under the Contract is limited to those personnel or authorised sub-contractors who need access to and/or process personal data to meet Seller's



- obligations under the Contract and that such personnel or authorised sub-contractors are obliged to keep the personal data confidential;
- (v) ensure that all personnel or authorised sub-contractors who have access to and/or process personal data do so only in accordance with the instructions from Buyer for such processing;
  - (vi) assist Buyer in responding to any request from a data subject and in ensuring compliance with Buyer's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - (vii) allow for and contribute to audits, including, inspections, conducted by Buyer or another auditor mandated by Buyer regarding compliance with the Data Protection Legislation;
  - (viii) notify Buyer without undue delay on becoming aware of a personal data breach;
  - (ix) at Buyer's written direction, delete or return personal data and copies thereof to Buyer on termination of the Contract unless required by Applicable Law to store the personal data;
  - (x) inform Buyer immediately if, in Seller's opinion, any instruction given to Seller by Buyer infringes Data Protection Legislation, ("**Seller's Commitments**").
- (g) Seller will maintain complete and accurate records and information to demonstrate Seller's compliance with Seller's Commitments and make them available to Buyer on demand.
- (h) Seller will keep such records as necessary to comply with Articles 30(2) and 30(3) (ignoring Article 30(5)) of the GDPR.
- (i) The scope, nature and purpose of processing, the duration of the processing and the types of personal data and categories of data subject as applicable to the Contract are set out in Seller's privacy policy.
- (j) Seller may, at any time on not less than thirty (30) days' notice, revise this clause 3.15 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme which will apply when replaced by attachment to the Contract.

### **3.16 Entire Agreement, Amendment and Non-reliance**

- (a) This Contract constitutes the entire agreement among the parties to this Contract with respect to the subject matter covered herein.
- (b) The Seller reserves the right to modify these Terms and Conditions at any time, at its sole discretion.
- (c) Any changes to these Terms and Conditions will be effective upon posting of the revised Terms and Conditions on the Seller's website or by direct communication to the Buyer via email.
- (d) The Buyer's continued use of the Seller's services following the posting of the revised Terms and Conditions constitutes the Buyer's acceptance of and agreement to be bound by the modified Terms and Conditions.
- (e) If the Buyer does not agree with the modified Terms and Conditions, the Seller may discontinue the Contract.
- (f) The Seller will provide notice of any material changes to these Terms and Conditions at least 30 days prior to their effective date.
- (g) For any changes that significantly affect the Buyer's rights or obligations, the Contract may only be modified by a written agreement executed by each of the parties to this Contract.
- (h) It is the Buyer's responsibility to review these Terms and Conditions periodically for any updates or changes.
- (i) If deliveries and performance of this Contract should commence prior to the acceptance of this Contract, Buyer will be deemed to have accepted all deliveries subject expressly to the provisions of this Contract.
- (j) The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in these Terms. Nothing in these Terms shall exclude or limit the Seller's liability for fraudulent misrepresentation.
- (k) If any provision of this Contract is deemed unenforceable or illegal, the remaining provisions will continue in full force and effect.

### **3.17 Notices and Official Language**

Any notice to be given by either party under this Contract may be given by electronic mail or letter addressed and sent by post to or left at the other party's registered address or their existing or last known place of business. All notices must be given in English.

### **3.18 Relationship**

This Contract governs the relationship between the parties for the purchase and sale of Products and/or Services. The parties are separate business entities, and will not be considered as partners, joint ventures, agents, servants, employees or fiduciaries of each other and neither will have the power to bind or obligate the other, except as may be set forth in this Contract. This Contract will not be construed in any way to deem Buyer as Seller's franchisee for any purpose whatsoever.

### **3.19 Assignment**

This Contract may not be assigned (in whole or in part) by Buyer without Seller's prior written consent. Seller may transfer Seller's rights and obligations under this Contract to an Affiliate on giving Buyer notice.