

1. INTRODUCTION
 - (a) These terms and conditions govern the relationship between JPW Retail Limited (hereinafter referred to as "The Company") of Unit 18 Wessex Trade Centre, Ringwood Road, Poole BH12 3PQ and "The Buyer" as defined as any company, partnership, practice or person requiring/obtaining the goods or services offered/carried out by the Company.
 - (b) At the discretion of the Company certain contracts or commissions will require specific terms and condition relating to a particular brief. In such an event, the Company will draw up a suitable agreement, which will be used in place of these Terms and Conditions of business. Under such circumstances, only the new agreement will be in force and effect. If such agreement is not required then these Terms and Conditions will govern all contracts, verbal or otherwise, entered into by the Company, for the supply of services. Any order given to the Company by the Buyer shall be deemed to constitute an agreement to be bound by these conditions
2. OTHER PRINTED OR STANDARD CONDITIONS
 - (a) Subject to the above statement, it is agreed that only these conditions shall apply to contracts between the Company and the Buyer. Documents emanating from the Buyer which contain printed or standard conditions have been and shall be sent by the Buyer and received by the Company on the understanding that they appear on the Buyer's documents because that are printed thereon but have no legal effect whatsoever and the Buyer waives any rights which the Buyer might have to rely on such conditions.
3. PREVIOUS CONDITIONS AND VARIATION
 - (a) Subject to the "General" statement above, these conditions shall have effect in place of any other conditions, which may have previously been notified by the Company to the Buyer. No addition or variation to these conditions shall be made or apply, unless expressly agreed in writing by the Company or Buyer.
4. ACCEPTANCE
 - (a) Unless otherwise stated in writing, all quotations and estimates by the Company are invitations to treat. The Buyer's order is an offer and will become binding upon the Company posting its acknowledgement of the order. The Company reserves the right to accept or refuse orders and also to cancel or suspend delivery under any incomplete order. Unless previously withdrawn all quotations are open for acceptance within thirty days only from the date thereof.
5. SPECIFICATION
 - (a) The Company reserves the right to change specifications without prior notice, as conditions warrant. Any performance data, instructions or advice as to use of the goods given in the Company's literature or included in the Company's quotations or elsewhere shall not form part of this contract unless specifically stated so to do in writing by the Company. Any specifications, drawings or particulars supplied by the Company are submitted in confidence for the use and information of the Buyer only; any copyright or intellectual property therein shall remain the property of the Company. They shall not be used by the Buyer except for the purpose of the order, nor shall they be disclosed to any third party for any purpose whatsoever. Installation is not included unless specifically agreed in writing.
6. FREE ISSUE MATERIAL
 - (a) Free issue materials are processed entirely at the risk of the Buyer.
7. SCOPE OF WORKS
 - (a) The Company shall provide the services as detailed in the service proposal document as issued relating to the service required to be supplied to the Buyer. Terms of Quotation contained within the service proposal document presented by the Company to the Buyer are deemed to form part of these terms of business as if they were bound within these terms of business.
8. CONTRACT PRICE
 - (a) The price charged will be in accordance with the estimates supplied and the functionality of any goods or services supplied will be based on the discussions held between the parties. The Company will interpret the requirements to supply a solution which conforms to its understanding of the requirements. Any changes required may be subject to additional charges. Extra work and expense caused by the delay in receiving instructions, delays in building operations, changes to the Buyer's instructions phased contracts, bankruptcy or liquidation of the contractor or any other cause beyond the control of the Company shall be additionally charged by the Company.
 - (b) In consideration for the provision of the services the Buyer shall pay the Company the sum outlined in the service proposal documents plus VAT, any additional charges and mandatory taxes at the prevailing rate within 30 days from the invoice date.
 - (c) Unless otherwise stated, all prices are quoted ex-works, unpacked and are exclusive of Valued Added Tax and are subject to alteration without prior notice. Goods and services will be invoiced at the price ruling at the date of invoice unless otherwise agreed in writing. The Company reserves the right to increase prices payable to take into account any applicable tariff, import/export charge, purchase tax or exchange rate or any other charges directly or indirectly affecting the goods. The Company also reserves the right to charge for any special certification requested by the Buyer.
 - (d) Invoices will be raised in accordance with the agreed timetable as outlines in the service proposal document.
 - (e) Without prejudice to any other rights available to the Company if any invoice remains unpaid 7 days after the due date then the outstanding balance shall attract interest (both before and after Judgement) at the rate of 8.8% per calendar month or part calendar month. All Foreign Exchange costs are to be borne by the Buyer and payment is to be made in the prevailing currency of the United Kingdom.
9. CARRIAGE
 - (a) Unless otherwise agreed the Buyer is responsible for all transportation of goods ex-factory. Where the Company undertakes the same it is at the risk and expense of the Buyer.
10. BUYER'S RESPONSIBILITIES
 - (a) To observe the terms, dates and requirements as set out in the goods or service proposals presented by the Company to the Buyer which are deemed to form part of these terms of business as if they bound within these terms of business.
 - (b) Should work on an order have to be suspended due to lack of necessary information or instructions from the Buyer, the contract price will be adjusted to take account of any loss or increased costs incurred as a result thereof.
 - (c) Where the Buyer requests the Company's employees to operate on a site for which the Company has no control, the Buyer will comply in all respect with all statute, bye laws and legal requirements to which they are ordinarily subject to in respect of their own employees and staff, including in particular the provision of adequate Employer's and Public Liability Insurance cover.
 - (d) The Buyer shall provide the Company with any information required under the Health and Safety legislation, (including, without limitation, any special occupational qualifications or skills and any special features of the assignments affecting health and safety)
 - (e) The Buyer shall ensure they comply with all relevant Health & Safety legislation in respect of the individual as if they were their employee's and that the individual complies with any obligations required under such legislation.
 - (f) The Buyer shall indemnify the Company against any claim made by their staff in respect of the Buyer's breach of these obligations. Where the service is the provision of staff the individual member of staff will be under the supervision of the Buyer from the time they report to take up their duties and the duration of the assignment.
 - (g) The Buyer hereby agrees that during all stages of the contract, including negotiation, and for a period of twelve months following its termination or expiry it will not directly or by its agents or otherwise and whether for itself or for the benefit of any other person induce or endeavour to induce any officer or employee of the Company to leave their employment. The damages for breach of this will be set at 50% of the gross remuneration package of the individual.
11. COPYRIGHT, PATENT, REGISTERED DESIGN AND TRADEMARK
 - (a) Except where expressly agreed in writing the Company does not grant any right, title or interest pursuant to its intellectual property rights. All equipment, software and other items provided and utilised by the Company, and the copyright and all other proprietary rights whatsoever, all documents or system developed, utilised or produced by the Company under this contract are and shall remain the property of the Company.
 - (b) The Buyer expressly agrees that any system or product produced as part of the scope of this contract will not be offered for resale or utilised in situations outside the scope of the work governed by this contract.
 - (c) The Buyer expressly agrees they are stopped from disputing the validity of such patents and systems.
 - (d) The Buyer will fully indemnify the Company against the costs associated with any claim for damages and against all liability in respect of any infringement of any letters, registered design or trademark.
12. CONFIDENTIALITY
 - (a) This contract shall be confidential and no detail shall be divulged by either party to any third party, other than external auditors, without the written permission of the signatories to this contract. This provision shall apply both while this contract is in force and afterwards
 - (b) Neither party shall have an obligation with respect to any confidential information of a commercial or other nature which :(a) has come into the public domain otherwise than as a result of breach of this contract. (b) is approved for release by written authorisation from the other party; (c) is received from a third party without similar restrictions and without breach of this contract; (d) is disclosed pursuant to a legally enforceable requirement of a Government agency or order of court.
13. EXTENT AND LIMITS OF LIABILITY
 - (a) The Company will use all reasonable endeavours to ensure its employees use reasonable skill and care in the provision of the service.
 - (b) The Company shall in no circumstances be liable to the Buyer in respect of any loss, damage or injury of any kind (which for the avoidance of doubt includes consequential loss or damage) whether suffered by the Buyer or any other party and howsoever caused (including being caused by any defect in, failure or unsuitability for any purpose of the drawings, designs, installation, warranties other warranties other items whether expressed or implied, statutory or otherwise, are hereby excluded.
 - (c) The Company is not liable in any way whatsoever for any costs incurred in the repair, replacement or re-installment of such property (or for any other works deemed necessary to make good such loss or damage). The Company shall not be liable for any loss of any kind (which for the avoidance of doubt includes consequential loss or damage) arising from any representation, statement, recommendations or advice made or given before the making of this contract
14. TERMINATION
 - (a) Orders accepted by the Company cannot be terminated, deliveries extended or schedules altered after acceptance by the Company, except with the written consent of the Company which will not be unreasonably withheld. The giving of the Company's consent shall in no way prejudice the Company's right to recover from the Buyer full compensation for any loss or expense arising from such a cancellation or variation. In the event of either party making a composition or arrangement with its creditors or having a proposal for the composition of debtors or scheme or arrangement approved in accordance with the Insolvency Act 1986, or having an application made for the appointment of an administrator or having a winding up order passed, or a provisional liquidator, receiver, manager, administrative receiver or similar officer appointed, or possession taken, by or on behalf of the holder of any debenture secured by a floating charge of any property comprised in or subject to the floating charge, or threatening to cease carrying on business, then this contract will terminate forthwith
 - (b) Any termination of this contract in accordance with this clause shall be without prejudice to any other rights or remedies a party may be entitled to under this contract, or at law, and shall not affect any accrued rights or liabilities of either party. In the event of termination the Company shall be entitled to claim full compensation for any loss or expense incurred from such a termination.
 - (c) The Goods shall be removed from the Buyer from the custody or control of the Company at such a date as may have been agreed between the parties. In the absence of such agreement, and otherwise where reasonably necessary, the Company may at any time by notice in writing to the Buyer require the removal of the Goods within 28 days from the date of such notice
 - (d) In the event of failure by the Buyer to pay any amount due to the Company or to remove any of the Goods from the custody or control of the Company (notice in accordance with condition (b) of this clause having been given) at the due time, the Company may, without prejudice to its other rights and remedies against the Buyer, give notice in writing to the Buyer of the Company's intentions to sell or otherwise dispose of the Goods at the Buyer's entire risk and expense if such amount is not paid and/or such Goods are not removed within 28 days, or in case of perishable goods within 3 days from the date of such notice. On the expiry of such period, if such payment has not been made and/or the Goods have not been removed the Company shall be entitled to sell or otherwise dispose of all or any part of the Goods at the Buyer's entire risk and expense by the best method reasonably available, and the proceeds of any sale or disposal shall be remitted to the Buyer after deduction there from of all expenses and all amount due to the Company from the Buyer on account
15. PAYMENT
 - (a) Unless otherwise stated in writing, payment shall be made in Sterling to the Company within 30 days of the date of the invoice. The Company reserves the right, without prejudice to any of its other rights hereunder to charge the Buyer interest on overdue amounts at the rate of 8.8 per cent above the base rate for the time being of any of the clearing banks selected by the Company, accruing daily. If the Buyer fails to pay promptly, he shall lose the benefit of any previously agreed discount. The Buyer shall pay all accounts in full and not exercise any rights of set-off or counterclaim against invoices submitted. Should the Company be prevented by the Buyer from delivering the goods for a period of 30 days after the date requested by the Buyer for the goods to be available, the full price of the goods shall immediately become due and payable.
16. TITLE
 - (a) Notwithstanding delivery, the property in the goods supplied hereunder will only pass to the Buyer when all the goods, the subject of this contract, have been paid for in full including any claim for interest Until the goods have been paid for in full:
 - (i) The Buyer shall hold the goods in the capacity of bailee on behalf of the Company and the Company can reclaim delivery of the goods at any time, or resell them
 - (ii) The Buyer shall obtain the Company's consent to resell the goods
 - (iii) The Buyer shall keep the goods separate and in a clearly identifiable state
 - (c) Subject to clause (i) the Buyer shall be entitled to sell the goods delivered on condition that:
 - (i) If the Company so requires, the Buyer as long as he has not fully discharged his debts to the Company, shall hand over to the Company the claims he has against his customer emanating from his transactions.
 - (ii) The proceeds of the resale to be kept separate and belong to the Company until the Buyer discharges his debt to the Company
 - (d) When the goods delivered to the Buyer but not paid for in full have become mixed or intermingled with other goods the Company shall have the right to trace the goods supplied even if those goods are no longer clearly identifiable and having completely lost their identity in the process of manufacturing or assembly.
17. STORAGE
 - (a) If the Buyer fails to take delivery on the agreed delivery date, or, if no specific delivery date has been agreed, when the goods are ready for despatch, the Buyer shall pay for them under the terms of Condition 15 herein, and take delivery or arrange for storage at his own expense. In the event that the Buyer fails to so take delivery then the Company shall be entitled to store and insure the goods and to charge the Buyer the reasonable costs of doing so, at a daily rate of two pounds sterling per square foot area, per week.
18. DELIVERY
 - (a) Where the goods are to be delivered by the Company in the United Kingdom 'delivery' shall mean delivery onto the carrier's vehicle onto the Company's own vehicle. On delivery the goods shall cease to be at the Company's risk and shall be at the sole risk of the Buyer.
 - (b) Delivery dates, where given, are an estimate only and no liability is accepted for late or non-delivery
 - (c) Any date quoted for despatch is to date from receipt of written order by the Company and of all necessary information and drawings to enable it to be put in hand.
19. ACCEPTANCE OF GOODS
 - (a) It is the Buyer's responsibility to check the goods on receipt and the Buyer shall be deemed to have accepted the goods if the Buyer does not notify any defect to the Company in writing within 7 days of delivery/collection. Acceptance shall be conclusive evidence that the Buyer has examined the goods and found them in good order.
20. GUARANTEE
 - (a) The Company gives the following guarantee to the first user of the goods supplied by the Company. The Company hereby undertakes for twelve months from the date of delivery to supply free of charge in exchange for any parts manufactured by the Company such new parts as (under normal use and service) appear to the Company to have been defective in workmanship and material, subject to the Company's discretion to repair such parts under the terms of Condition 18 herein provided that:

- (i) (1) The alleged defective parts are returned to the Company's works carriage paid not later than four weeks after discovery of the defect, clearly marked on the outside of the package with the name and address of the sender and the description and reference number of the part(s)/goods from which they are taken.
- (3) All bought-out components and items not manufactured by the Company shall not be covered by the Company's guarantee but by the terms of the suppliers guarantee.
- (ii) The aforesaid guarantee is given on condition that alterations made to the goods without the Company's written agreement, the operations of the goods in excess of the agreed and known capacity, misuse, neglect or failure to follow instructions given by the Company for the proper use and maintenance of the goods, shall invalidate the aforesaid guarantee.
- (iii) Under no circumstances is the Company under any liability whether as regards suitability of the goods and any accessories supplied therewith or subsequently, for any particular purpose, or as regards design, or as regards any direct or indirect consequence of any defects in the goods or for stoppages, loss of profit, or loss of time when goods are out of commission, or accidents or loss or damage of any description. The liability of the Company under this guarantee shall be limited to the invoice value of the components replaced or repaired. Further the Buyer hereby agrees to indemnify the Company in respect of any claim that may be brought against the Company arising out of the death or injury to any persons as a direct result of the operation of the goods.
- (iv) Subject to the aforesaid guarantee and subject to the supply of goods (Implied Terms) Act 1973 all other Conditions and/or warranties whether express or implied are hereby excluded.

- (2) On or before despatch the Buyer informs the Company in writing that he claims to have the same repaired or replaced under this guarantee, giving full particulars of the manner in which, and the circumstances under which they have become defective.

Employees and Sub-Contractors

- (a) The Buyer and the owner of the Goods will not take any proceedings against any employee or sub-contractor of the Company for a Claim.
- (b) Without prejudice to condition (a) of this clause, if an employee or sub-contractor pays or is liable to make payment to the Buyer or Owner of the Goods in connection with a claim, the Buyer and the owner of the Goods will each fully indemnify the Company against any claim (including all costs and expenses) by the employee or sub-contractor against the Company for reimbursement of or indemnity against payment to the extent that it exceeds £100 per tonne weight of that part of the Goods the subject of a claim or any higher figure agreed under Condition (c) of this clause.
- (c) In any of the circumstances referred to in Condition (d) of this clause hereof, and otherwise with the written consent of the Buyer, the Company shall be entitled to sub-contract all or part of its business and in this event these conditions shall apply to such service. The Company shall be entitled to sub-contract with others for the security, cleaning maintenance, repair and other services and works at the premises where Goods are located.
- (d) The circumstances referred to in Condition (c) of this clause hereof are actual or anticipated storm, flood, fire, explosion, breakdown, or failure of plant and/or machinery, riot, civil disturbance, industrial dispute, labour disturbance, requirement of a responsible Authority or any emergency reasonably requiring such action by the Company.

21. FREE ISSUE GOODS

Buyer Warranty

- (a) The Buyer warrants that it is either the owner of the Goods or is authorized by such owner to accept these conditions on the owner's behalf

Warehousing

The Buyer undertakes that :-

- (a) When presenting for warehousing the Goods shall be securely and properly packed in compliance with any statutory regulations or official or recognised standards and in such condition as not to cause damage or injury or the likelihood of damage or injury to the property of the Company or to any other Goods, whether by spreading damp, infestation, leakage of fumes or substances or otherwise howsoever.
 - (b) Before presentation of the Goods for warehousing, the Buyer will inform the Company in writing of any special precautions necessitated by the nature, weight or condition of the Goods and of any statutory duties specific to the Goods with which the Company may need to comply.
 - (c) It will reimburse all duties and taxes that the Company may be required to pay in respect of the Goods, except to the extent that the Company is required to accept responsibility for them.
 - (d) Unless prior to acceptance of the Goods by the Company, the Company receives written notice containing all appropriate information, none of the Goods constitute "waste" as defined in the Environmental Protection Act 1990.
 - (e) Unless prior to acceptance of the Goods by the Company, the Company receives written notice containing all appropriate information, none of the Goods are or contain substances the stores of which would require the obtaining of any consent or licence or which, if they escape from their packaging, would or may cause pollution of the environment or harm to human health.
 - (f) If there is a breach of contract by the Buyer, the Buyer will indemnify the Company against any loss or damage it suffers which is related to the breach, and pay all costs and expenses (including professional fees) incurred in, and the Company's reasonable charges for, dealing with the breach of its consequences.
 - (g) The Buyer will pay extra storage charges equal to that amount of any fine or penalty payable by the Company wholly or partly as a result of a breach by the Buyer of this contract. If the Company suspects a breach of warranty of any other undertaking it may demand the immediate removal of any Goods held for the Buyer, or itself arrange removal without notice, at the Buyer's expense.
- Company Liability for Goods and other losses:-
- (a) Except as provided in condition (c) of this clause, the Company does not insure that Goods and the Buyer shall make arrangements to cover the Goods against all risk to the full insurable value thereof.
 - (b) The Company excludes liability for any claim relating from loss, damage, deterioration, delay, non-delivery, mis-delivery unauthorised delivery or non-compliance with instruction of or to or in connection with the Goods ("Claim"). This exclusion does not apply if a claim arises from neglect or wilful act or default of the Company, its employees (acting in furtherance of their duties as employees) or sub-contractors (acting in furtherance to their duties as sub-contractors). In any case the Company's liability shall not exceed a total of £100 per tonne weight of that part of the Goods in respect of which a claim arises. In no case shall the Company be liable for any loss of profit or indirect or consequential loss of any kind.
 - (c) The limit of liability in condition (b) of this clause may be increased by written notice, in which event the Buyer shall give written notice to be received by the Company at least 7 days before the date on which the increased liability is required to be operative and shall specify the nature and the maximum value of the Goods to be at Risk inclusive of duty and taxes paid of payable thereon. Under no circumstances will the Company's liability to the Buyer exceed the value given under this notice
 - (d) The Buyer shall accept an increase in the Company's charges to cover the costs incorrect in insuring against the Company's additional liability hereunder
 - (e) The Company shall not be liable for any claim unless it has received written notice of the claim from the Buyer within 21 days (7 days in the case of sub-contract carriage) of the cause of the claim coming to the Buyer's knowledge or of the Goods being delivered by the Company to or to the use of the Buyer whichever is later.
 - (f) No legal proceedings may be brought against the Company unless they are issued and served, and no counter claim may be raised unless full written details are received by the Company within 6 months of the event giving rise to the claim.
 - (g) The Company shall not be liable hereunder for any loss or damage to the extent that the same is caused or contributed to by a breach of and of the Buyer's warranties and undertakings (or by and of the circumstances by virtue of which the Company is relieved of its contractual obligations in accordance with Clause 13.

22. GENERAL

- (a) Each exclusion or limitation in these Conditions exists separately and cumulatively. When reasonable necessary and at the discretion on the Company the Goods may be carried, stored or handled with other compatible goods or transferred between stores.
- (b) All technical information published or supplied by the Company is subject to alteration or correction without notice and does not in any way constitute a sale by description.
- (c) The Buyer shall not assign, transfer, subcontract or in any manner make over to a third party the benefits of this contract without the prior written consent of the Company.
- (d) Any waiver by either party of its rights under this contract or of any breach of this contract shall not be construed as a waiver of any or further rights or breach
- (e) Both parties to the contract will comply with their respective obligations under the Data Protection Act as modified from time to time.
- (f) In the event of any claim being made or action being brought against the Buyer in respect of infringements of patents by the manufacturer or supplier of the goods supplied to the Buyer hereunder, the Buyer shall make no admissions in respect thereof, but shall notify the Company immediately and the Company shall be at liberty with the Buyers assistance if required, but at the Company's expense to conduct all negotiations or liabilities expressed or implied by law, all of which hereby expressly excluded.
- (g) Headings are for convenience only and shall not affect the construction of the contract
- (h) No contract shall be deemed to be capable of invalidation owing to printing or clerical errors

23. WHOLE AGREEMENT

- (a) Each party acknowledges this contract and the goods or service proposal document contains the whole contract between the parties and that it has not relied upon any oral or written representations made to it by the other or its employees or agents and has made its own independent investigation into all matters relevant to it.
- (b) This contract includes the goods or service proposal document supersedes any prior contract between the parties, either written or oral, for the provision of the services.

24. DISPUTE/ARBITRATION

- (a) In the event of any dispute over the quality of service received the Buyer will inform the Managing Director of the Company in writing. The Managing Director will then undertake a full review of all complaints received and shall offer up a report within 4 weeks of receipt

25. LAW

- (a) In the event this contract will be governed only by English Law, and the Courts of England will have jurisdiction. All titles or headings shown in these terms and conditions are for convenience only and do not themselves form any part of the contract. If for any reason any clause or sub-clause is not forcible according to its terms then the others will remain in full force and effect.

26. FORCE MAJEURE

- (a) Neither party shall be in breach of this contract if there is any total or partial failure of performance by it or its duties and obligations resulting from causes beyond its control including, but not limited to, and act of God, fire, act of government or state war, labour disputes of whatever nature, breakdown of plant or machinery or inability to obtain materials or staffing.

27. NOTICE

- (a) Any notice or documentation given under this contract shall be in writing and shall be deemed to have been duly given, left at, or sent by first class post, registered post, telex, facsimile or other electronic media to a party at its address, registered office or last known address for such party or other address as the party may from time to time designate by written notice by the other. Ant notice given by post shall be deemed to have been delivered after 48 hours after posting. Where notice is given by telex or facsimile transmission it shall be deemed to have been delivered at the time specified on the senders transmission records if transmitted before 5pm on a working day but otherwise on the next working day.

28. SEVERABILITY

- (a) If any provision of this contract (including the goods or service proposal document) is found to be invalid or unenforceable under any applicable law then such provision shall be inoperative to the extent necessary to achieve compliance with such law. Such provision to the extent that this is not invalid or unenforceable and the remaining provisions of this contract shall continue to be valid and binding upon the parties and if like effect as though the inoperative portion of provisions were not included herein.