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LONG TERM SUPPLY (SALE OR RETURN)

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THIS AGREEMENT is made the

BETWEEN:

- (1) <<Name of Supplier>> [a <<Country of Registration>> under number <<Company Registration Number>>] whose registered office is at] **OR** [of] <<insert Address>> ("the S
- (2) <<Name of Buyer>> [a <<Country of Registration>> under number <<Company Registration Number>>] whose registered office is at] **OR** [of] <<insert Address>> ("the B

WHEREAS:

- (1) The Supplier carries on the business of manufacturing and selling the Goods.
- (2) The Buyer carries on the business of manufacturing and selling Goods and wishes to purchase the Goods from the Supplier for
- (3) The Supplier is willing to supply the Goods to the Buyer on a sale or return basis under the terms set out in t

IT IS AGREED as follows:

1. **Definitions and Interpretation**

- 1.1 In this Agreement, unless otherwise requires, the following expressions have the meanings set out below:

"Business Day"

any day other than Saturday or Sunday) on which the premises are open for their full range of products and services at <<insert location>>;

"Commencement Date"

>>;

"Confidential Information"

information of either Party, information which is disclosed to the other Party pursuant to this Agreement (whether orally or in writing or by any medium) which is by its nature confidential or expressly stated to be confidential or

"Expert"

an independent and suitably qualified third party whose reference is made under Clause 8;

"Goods"

the Goods to be supplied by the Supplier pursuant to Clause 1;

"Quarter"

any three months commencing on the first day of any consecutive period of three months and any shorter period commencing on the first day of the end of the Quarter and ending on the last day of this Agreement and "Quarterly" shall have the same meaning;

“Rejection Notice”

“Return Date”

“Returns Form”

“Returned Goods”

“Sale or Return Basis”

“Specification”

“Standard Sale Basis”

“Statement of Returned Goods”

“UK”

“Year”

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12 months from the date of this
consecutive period of 12 months
period of this Agreement.

reference in this Agreement to:

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or similar means;

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at the relevant time;

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graph of the relevant Schedule;

- 1.2.6 a "Party" or the parties to this Agreement; and
- 1.2.7 a reference to the "Buyer" shall also refer to any officers, employees or contractors of that Party.
- 1.3 The headings used herein are for convenience only and shall have no effect upon the interpretation of this Agreement.
- 1.4 Words imparting the singular shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.
- 1.6 References to persons shall include corporations and associations.
- 2. Supply of Goods**
- 2.1 Subject to the provisions of Clause 3, the Supplier shall accept orders from the Buyer to buy the Goods for its business on the Commencement Date.
- 2.2 Every order shall be placed not less than <<insert period, e.g. 1 Quarter>> of lead-time before the order and the delivery date, such date to be specified in each order.
- 2.3 During the continuance of this Agreement the Supplier shall sell and the Buyer shall purchase such Goods as may be ordered by the Buyer subject to the terms and conditions of this Agreement.
- 2.4 The Buyer shall, not less than <<insert period>> Business Days before the beginning of each Quarter, deliver its order for the Goods to be delivered to the Buyer. Each order so given shall be final, except that the Supplier shall accept amendment to an order not more than <<insert period>> Business Days after the order is given.
- 2.5 Orders for the Goods, whether given by the Buyer to the Supplier in writing or orally, shall be confirmed by the Buyer in writing not more than <<insert period>> Business Days after the order is given by the Buyer.
- 2.6 The Buyer shall not place orders with the Supplier without giving:
- 2.6.1 its estimated requirements for each Year, not less than <<insert period>> months before the beginning of each Year;
- 2.6.2 its estimated requirements for each Quarter, not less than <<insert period>> months before the beginning of each Quarter; and
- 2.6.3 any revisions to its estimates, immediately after they are made.
- 2.7 If the Buyer's orders or revised estimates go beyond the Supplier's output capacity or are otherwise impracticable for the Supplier to supply, the Supplier shall:
- 2.7.1 immediately notify the Buyer;
- 2.7.2 obtain the necessary quantities of the Goods from any other person such as may be available to the Supplier, if it is unable to supply in accordance with the Buyer's requirements;
- 2.7.3 for the purposes only of sub-Clause 2.3, that quantity of the Goods so obtained. The Supplier shall not be deemed to

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be in breach of this Agreement (including sub-Clause) to his/her/its/their satisfaction.

2.7.3.1 the Supplier shall, upon receipt of such written notice, immediately suspend the supply of that quantity in accordance with the orders; and

2.7.3.2 the Supplier shall, upon receipt of such written notice, suspend the supply of that quantity for a reasonable time to terminate any order it may have made with any other party.

2.8 The Supplier shall, upon receipt of such written notice, suspend the supply of that quantity for a reasonable time to terminate any order it may have made with any other party. The Supplier shall not be obliged to obtain alternative goods or services from any other source. When the Supplier is once again able to supply the goods or services required by the Buyer it shall notify the Buyer as soon as practicable.

3. Specification of the Goods

3.1 All Goods sold by the Supplier pursuant to this Agreement shall conform in all respects with the Specification. The Buyer shall be entitled to reject any quantity of the Goods which do not conform with the Specification, subject to and in accordance with the provisions of Clause 5.

3.2 The Supplier shall ensure that the Specification of the Goods to be sold by the Supplier is acceptable to both Parties, and shall agree to any change to the Specification requested by the Buyer.

4. Manufacture and Delivery

4.1 The Supplier shall endeavour to manufacture and deliver the Goods to fulfil its obligations under this Agreement.

4.2 The Supplier shall endeavour to deliver each of the Goods specified in the relevant order or within a reasonable time of the order, in the essence and if, despite those endeavours, the Supplier is unable to deliver the Goods on the specified date, the Supplier shall not be deemed to be in breach of this Agreement unless and until the Buyer has given the Supplier written notice to the Supplier requiring the delivery within that period.

4.3 The Supplier shall, at the Supplier's UK premises at <<insert address>> to the Buyer's UK premises as the Buyer may require and arrange insurance therefor, in which case the cost of such insurance shall be borne by the Buyer.

4.4 Whether or not the Supplier is required to transport pursuant to sub-Clause 4.3:

failing to supply under that sub-Clause, the Supplier, until such time as:

the Buyer written notice (together with such written notice as the Buyer may reasonably require) to suspend the supply of that quantity in accordance with the orders; and

reasonable time to terminate any order it may have made with any other party.

breach of this Agreement where the Supplier complies with sub-Clause 2.7.1. The Supplier shall be entitled to reject the Buyer's inability or failure to supply the Goods from any other source. When the Supplier is once again able to supply the Goods required by the Buyer it shall notify the Buyer as soon as practicable.

pursuant to this Agreement shall conform in all respects with the Specification. The Buyer shall be entitled to reject any quantity of the Goods which do not conform with the Specification, subject to and in accordance with the provisions of Clause 5.

from time to time during the continuance of this Agreement, the Supplier shall ensure that the Specification of the Goods to be sold by the Supplier is acceptable to both Parties, and shall agree to any change to the Specification requested by the Buyer.

endeavours to manufacture and deliver the Goods to fulfil its obligations under this Agreement.

endeavours to deliver each of the Goods specified in the relevant order or within a reasonable time of the order, in the essence and if, despite those endeavours, the Supplier is unable to deliver the Goods on the specified date, the Supplier shall not be deemed to be in breach of this Agreement unless and until the Buyer has given the Supplier written notice to the Supplier requiring the delivery within that period.

arrange for suitable transport from the Supplier's UK premises at <<insert address>> to the Buyer's UK premises as the Buyer may require and arrange insurance therefor, in which case the cost of such insurance shall be borne by the Buyer.

transport pursuant to sub-Clause 4.3:

¹ This template assumes that both Supplier and Buyer should take legal advice before deciding whether to enter into this Agreement.

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4.4.1 delivery of the Goods shall be at the Supplier's UK premises at the time of delivery. <<insert additional terms and conditions>>

4.4.2 risk in, and the responsibility for, the Goods shall pass to the Buyer once the Goods are loaded on to transport at the Supplier's UK premises.

4.5 In the case of Goods sold on a Standard Sale Basis, title to the Goods shall pass to the Buyer once the Goods are loaded on to transport at the UK Supplier's premises.

4.6 In the case of Goods sold on a Sale or Return Basis, title to the Goods shall remain with the Supplier until such time as payment is received in full by the Supplier. The Buyer shall be in possession of the Goods as bailee for the Supplier. The Buyer shall store the Goods at the Buyer's UK premises in an appropriate environment, shall ensure that they are protected from damage, and shall insure them against loss or theft. Notwithstanding the foregoing, the Buyer may, at any time, resell them in the ordinary course of business.

4.7 Every order given by the Buyer shall be deemed to be an order to buy the Goods on a Standard Sale Basis save for any order in which the Buyer specifies otherwise. The Supplier shall ensure that the Goods are clearly identified as being sold on a Standard Sale Basis or a Sale or Return Basis.

5. Defective Goods

5.1 The provisions of this Clause shall be without prejudice to the provisions of Clause 6 governing the provisions of sub-Clause 3.1 regarding the conformity of the Goods with the Specification.

5.2 The Buyer shall, within five Business Days of the arrival of each delivery of the Goods at the Buyer's premises, submit a Rejection Notice to the Supplier specifying the nature of the defect of which the Buyer alleges that the Goods delivered do not conform with the Specification and which renders them unsuitable for use.

5.3 If the Buyer fails to submit a Rejection Notice then, except in respect of any defect which is not apparent on reasonable inspection, the Goods shall be deemed to be, in all respects, in accordance with the Specification. The Buyer shall be deemed to have accepted the delivery of the Goods and the Supplier shall have no liability to the Buyer in respect of any defect.

5.4 If the Buyer gives notice to the Supplier in respect of any delivery of the Goods which are not in accordance with the Specification, the Supplier shall be obliged to do so by the Buyer:

5.4.1 supply replacement Goods which are in accordance with the Specification; or

5.4.2 notify the Buyer that the Supplier shall not be deemed to be in breach of the Specification and the Supplier shall have no liability to the Buyer in this respect); or

5.4.2 notify the Buyer that the Supplier shall not be deemed to be in breach of the Specification and the Supplier shall have no liability to the Buyer in this respect); or

5.4.2 notify the Buyer that the Supplier shall not be deemed to be in breach of the Specification and the Supplier shall have no liability to the Buyer in this respect); or

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- shall be the Supplier's price for the Goods.
- 7.2 The Supplier shall be entitled to increase the ex-factory prices for the Goods at the end of each Year and to the extent that the Supplier, in its sole discretion, considers such increase to be justified by any material increase in the price of the Goods. The Supplier shall notify the Buyer of any such increase.
- 7.3 The Supplier shall be entitled to increase the price of the Goods to cover extra expense incurred as a result of the Buyer's instructions or lack of instructions.
- 7.4 The price for the Goods shall include:
- 7.4.1 any costs of insurance of the Goods; and
 - 7.4.2 any value added tax or duty which shall be added to the price of the Goods.
- 7.5 The Supplier shall invoice the Buyer on a consignment of Goods sold on a Standard Sale Basis and the Buyer shall pay the sums shown to be due by the Supplier, to such bank account as the Supplier may nominate, within <<insert period>> of each invoice is submitted by the Supplier.
- 7.6 The Supplier shall invoice the Buyer on a consignment of Goods sold on a Sale or Return Basis and the Buyer shall pay the sums shown to be due by the Supplier, to such bank account as the Supplier may nominate, [within <<insert period>> of each invoice is submitted by the Supplier] OR [on the date the Goods are resold to the Buyer's customers] as set out in Schedule 3 to the Agreement.
- 7.7 If either Party fails to pay the amount which is payable to the other Party under the Agreement, the Supplier shall be entitled to the remedy of the other Party, without prejudice to any other right or remedy available to the Supplier.
- 7.7.1 that amount shall be payable to the Supplier from the due date until payment is made in full at a rate of <<insert percentage>>% per cent above the rate of interest then prevailing in the City of London with before and after any judgment;
 - 7.7.2 in the case of the Buyer, the Supplier shall be entitled to suspend the supply of further Goods until the outstanding amount has been paid in full by the Buyer.
8. **Expert Determination**
- 8.1 Where under sub-Clause 7.7 the matter shall be referred to an independent third person as may be agreed between the Parties or, in default of agreement, nominated by either party by the President for the time being of <<insert authority or association>>.
- 8.2 Any Expert to whom the matter is referred under sub-Clause 8.1 shall act as an expert and not as an arbitrator. The expert or experts shall be entitled to appoint such technical assistance as may be necessary to assist him/her in determining the matter. The decision of the Expert (which shall be final and binding on the Parties) shall be made within <<insert period>> of the date of the referral of the matter to the Expert.

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shall be given by him/her (and the reasons therefor) shall be final and binding on the Parties.

8.3 Each Party shall provide such information as he/she may reasonably require for his/her determination; if either Party claims any such information is confidential to it then, provided that in the opinion of the Expert the information is claimed the same as confidential, the Expert shall not be bound by such claim. The information shall be disclosed to the other Party or to any third party.

8.4 The costs of any technical expert(s) appointed by him/her shall be in such proportion as the Expert may determine to be fair having regard to the circumstances, or, if the Expert makes no such determination, the costs shall be in equal proportions.

9. Confidentiality

9.1 Each Party undertakes to keep confidential the Confidential Information provided by sub-Clause 9.2 or as authorised in writing by the other Party. It shall, at all times during the continuance of this Agreement and for a period of <insert period>> years] after its termination:

9.1.1 keep confidential the Confidential Information;

9.1.2 not disclose the Confidential Information to any third party;

9.1.3 not use any Confidential Information for any purpose other than as contemplated by the terms of this Agreement;

9.1.4 not make any Confidential Information available in any way or part with possession of any Confidential Information;

9.1.5 ensure that any disclosure by its contractors or subcontractors shall not be a breach of this Clause 9.1.1 to 9.1.4 above.

9.2 Either Party may:

9.2.1 disclose any Confidential Information to:

9.2.1.1 any officer or director of that Party;

9.2.1.2 any authority or regulatory body; or

9.2.1.3 any other person who is an officer or employee of that Party or of any of the companies or bodies;

to such extent as is necessary for the purposes contemplated by this Agreement (including, but not limited to, the supply of the Goods), or as required by law or as required by any court or competent authority. Where that Party shall first inform the other Party that the Confidential Information is to be disclosed to any such body (other than an officer or employee of any such body) and that Party shall first inform the other Party a written confidentiality undertaking. Such undertaking should be as follows: I, the undersigned, in pursuance of this Clause 9, to keep the Confidential Information confidential and to use it only for the purposes

9.2.2 use any Confidential Information for any purpose, or disclose it to any other person, or at any time, other than as is at the date of this Agreement, in the public knowledge through no fault of that Party, or disclosure, that Party must

- not disclose such Confidential Information which is not public knowledge.
- 9.3 The provisions of this Agreement shall remain in force in accordance with their terms [indefinitely] or for a period of <<insert period>> years after termination], notwithstanding the expiration or termination of this Agreement for any reason.
- 10. Indemnity**
- 10.1 The Supplier shall defend the Buyer against all actions, proceedings, claims, demands, damages, losses and expenses, including reasonable attorneys' fees and costs, howsoever arising, as a result of any claim for which the Buyer or the Supplier may be liable (save to the extent that such claim is attributable to any acts or omissions of the Buyer, its employees, agents or subcontractors):
- 10.1.1 for the infringement of the Buyer's property rights arising out of, or in connection with, the Goods;
- 10.1.2 in relation to the Supplier's breach or delay in the performance of its obligations;
- 10.1.3 for death or personal injury, or damage to property arising out of, or in connection with, the Goods (only to the extent that such defects are attributable to the Supplier, its employees, agents or subcontractors), and "defects in Goods" in this Clause 10.1 shall include any defects or which are defective within the meaning of the Consumer Protection Act 1987.
- 10.2 The Indemnity set out in Clause 10.1 shall apply provided that:
- 10.2.1 the Buyer notifies the Supplier of any claim or proceeding as soon as possible following receipt of it;
- 10.2.2 the Buyer maintains its liability, agreement or compromise to defend or settle the claim or proceedings and expense; and
- 10.2.3 the Buyer gives the Supplier reasonable information, access and assistance in connection with such claims or proceedings at the Supplier's cost.
- 10.3 The Buyer shall indemnify the Supplier against all actions, proceedings, claims, demands, damages, losses and expenses, including reasonable attorneys' fees and costs, howsoever arising, as a result of any claim for which the Buyer or the Supplier may be liable (save to the extent that such claim is attributable to the Buyer, its employees, agents or subcontractors):
- 10.3.1 for the infringement of the Supplier's property rights arising out of, or in connection with, the Goods;
- 10.3.2 in relation to the Buyer's breach or delay in the performance of its obligations;
- 10.3.3 for death or personal injury, or damage to property arising out of, or in connection with, the Goods (only to the extent that such defects are attributable to the Buyer, its employees, agents or subcontractors), and "defects in Goods" in this Clause 10.3 shall include any defects or which are defective within the meaning of the Consumer Protection Act 1987.
- 10.4 The indemnity set out in Clause 10.3 shall apply provided that:
- 10.4.1 the Supplier notifies the Buyer of any claim or proceeding as soon as possible following receipt of it;
- 10.4.2 the Supplier maintains its liability, agreement or compromise to defend or settle the claim or proceedings and expense; and
- 10.4.3 the Supplier gives the Buyer reasonable information, access and assistance in connection with such claims or proceedings at the Buyer's cost.

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10.4.3 the Supplier shall provide reasonable assistance in connection with such claims or proceedings at the Buyer's cost

reasonable information, access and assistance in connection with such claims or proceedings at the Buyer's cost

10.5 Notwithstanding the above, the Buyer may, without the Supplier's involvement or consent (but subject to giving the Supplier notice of the terms of any such settlement) if it reasonably believes that its failure to do so would be in any material way prejudicial to its interests

Clause 10.2.2, the Buyer may, without the Supplier's involvement or consent (but subject to giving the Supplier notice of the terms of any such settlement) if it reasonably believes that its failure to do so would be in any material way prejudicial to its interests

10.6 Notwithstanding the above, the Supplier may, without the Buyer's involvement or consent (but subject to giving the Buyer notice of the terms of any such settlement) if it reasonably believes that its failure to do so would be in any material way prejudicial to its interests

Clause 10.4.2, the Supplier may, without the Buyer's involvement or consent (but subject to giving the Buyer notice of the terms of any such settlement) if it reasonably believes that its failure to do so would be in any material way prejudicial to its interests

10.7 Nothing in this Clause shall limit the Buyer's general duty at law to mitigate losses that may arise as a result of any matters that may give rise to a claim

Nothing in this Clause shall limit the Buyer's general duty at law to mitigate losses that may arise as a result of any matters that may give rise to a claim

11. Limitation of Liability

11.1 This Clause 11 sets out the limitation of liability of the Parties (including employees, agents or subcontractors) to the other Party for any claim, loss or damage (including any use or resale made by the Buyer of the Goods) arising out of or in connection with this Agreement, statement or tortious act or omission (including negligence and breach of statutory duty) arising out of or in connection with this Agreement.

11.1 This Clause 11 sets out the limitation of liability of the Parties (including employees, agents or subcontractors) to the other Party for any claim, loss or damage (including any use or resale made by the Buyer of the Goods) arising out of or in connection with this Agreement, statement or tortious act or omission (including negligence and breach of statutory duty) arising out of or in connection with this Agreement.

11.2 Subject to sub-Clause 11.6, the liability of either Party to the other, whether in contract, tort (including negligence), restitution, or for breach of statutory duty or misrepresentation, shall be limited to the profit, loss of goodwill, loss of business opportunity, loss of or corruption of any data or information, or any other loss that may be suffered by the Party in connection with this Agreement.

11.2 Subject to sub-Clause 11.6, the liability of either Party to the other, whether in contract, tort (including negligence), restitution, or for breach of statutory duty or misrepresentation, shall be limited to the profit, loss of goodwill, loss of business opportunity, loss of or corruption of any data or information, or any other loss that may be suffered by the Party in connection with this Agreement.

11.3 Nothing in this Agreement shall limit the liability of either Party to the other for fraud or fraudulent misrepresentation, or for deliberate default or wilful misconduct, or for breach of statutory duty or misrepresentation.

11.3 Nothing in this Agreement shall limit the liability of either Party to the other for fraud or fraudulent misrepresentation, or for deliberate default or wilful misconduct, or for breach of statutory duty or misrepresentation.

11.4 Nothing in this Agreement shall limit the liability of either Party to the other for breach of the terms of the Agreement or for breach of Section 2 of the Sale of Goods Act 1979 or for breach of Section 2 of the Misrepresentation Act 1967.

11.4 Nothing in this Agreement shall limit the liability of either Party to the other for breach of the terms of the Agreement or for breach of Section 2 of the Sale of Goods Act 1979 or for breach of Section 2 of the Misrepresentation Act 1967.

11.5 Nothing in this Agreement shall limit the liability of either Party to the other in respect of the indemnity provided by the Supplier under sub-Clause 7.2.

11.5 Nothing in this Agreement shall limit the liability of either Party to the other in respect of the indemnity provided by the Supplier under sub-Clause 7.2.

11.6 Without prejudice to the limitation of liability of the Supplier under sub-Clause 7.2, the total liability of the Supplier (whether in contract, tort (including negligence), restitution, for breach of statutory duty or misrepresentation) shall be limited to £<<insert sum>> in respect of claims arising out of or in connection with this Agreement.

11.6 Without prejudice to the limitation of liability of the Supplier under sub-Clause 7.2, the total liability of the Supplier (whether in contract, tort (including negligence), restitution, for breach of statutory duty or misrepresentation) shall be limited to £<<insert sum>> in respect of claims arising out of or in connection with this Agreement.

11.7 Without prejudice to the limitation of liability of the Buyer under sub-Clause 7.2, the total liability of the Buyer (whether in contract, tort (including negligence), restitution, for breach of statutory duty or misrepresentation) shall be limited, in the case of unpaid invoices, to the sum of the unpaid invoices together with any interest due under sub-Clause 7.2 and all other acts or omissions

11.7 Without prejudice to the limitation of liability of the Buyer under sub-Clause 7.2, the total liability of the Buyer (whether in contract, tort (including negligence), restitution, for breach of statutory duty or misrepresentation) shall be limited, in the case of unpaid invoices, to the sum of the unpaid invoices together with any interest due under sub-Clause 7.2 and all other acts or omissions

occurring in each Year, <<insert sum>> for that Year.

12. Force Majeure

- 12.1 Neither Party to this Agreement shall be liable for any failure or delay in performing their obligations under this Agreement if such failure or delay results from any cause that is beyond the control of the Party ("Force Majeure"). Such causes include, but are not limited to, war, civil unrest, strike, internet service provider failure, industrial action, fire, flood, storms, earthquakes, acts of terrorism, acts of war, or any other event that is beyond the control of the Party.
- 12.2 [In the event that a Party cannot perform their obligations hereunder as a result of a Force Majeure event for a continuous period of <<insert period>>, the other Party may terminate this Agreement by giving written notice at the discretion of the other Party. In the event of such termination, the Parties shall agree on the amount of payment for any and all Goods delivered but not accepted. The payment shall take into account any prior contractual obligations and the Party in reliance on the performance of this Agreement.]

13. Term and Termination

- 13.1 This Agreement shall commence on the Commencement Date and shall continue for a term of <<insert period>> from that date, subject to the provisions of this Clause 13.
- 13.2 Either Party shall have the right to terminate this Agreement by giving not less than <<insert notice period>> written notice to the other Party at any time prior to the expiry of the term specified in Clause 13.1. The Party giving notice may extend this Agreement for a further <<insert period>> by giving to the other not less than <<insert notice period>> written notice to expire on or at any time after the expiry of the <<insert period>>.
- 13.3 Either Party may terminate this Agreement by giving to the other not less than <<insert notice period>> written notice to expire on or at any time after the expiry of the <<insert minimum term>>.
- 13.4 Either Party may terminate this Agreement by giving written notice to the other Party if the other Party is in breach of any of the provisions of this Agreement and fails to remedy the breach within <<insert period>> Days after being given written notice giving the Party the opportunity to be remedied;
- 13.4.1 any sum owed by the other Party under any of the provisions of this Agreement is not paid within <<insert period>> Days after the due date of payment;
- 13.4.2 the other Party is in breach of any of the provisions of this Agreement and fails to remedy the breach within <<insert period>> Days after being given written notice giving the Party the opportunity to be remedied;
- 13.4.3 an encumbrance is placed on any of the property or assets of the other Party, or where the other Party is a company, a charge is created over any of the property or assets of that other Party;
- 13.4.4 the other Party is involved in a liquidation arrangement with its creditors or, where the other Party is a company, is placed into an administration order (within the meaning of the Insolvency Act 1986);
- 13.4.5 the other Party is a company and has a bankruptcy order made against it, or goes into liquidation (except for

- the purposes of this Agreement in a manner that shall not be bound by or subject to the provisions of this Agreement.
- 13.4.6 anything and all in the jurisdiction of the other Party;
- 13.4.7 that other Party shall not be bound by or subject to the provisions of this Agreement;
- 13.4.8 control of the other Party or any persons not connected with the other Party as defined in Sections 112 and 113 of the Corporation Tax Act 2010.
- 13.5 For the purposes of this Agreement, each Party shall be considered capable of remedy if the Party is not bound by or subject to the provisions of this Agreement.
- 13.6 The rights to terminate this Agreement shall not prejudice any other rights or remedies concerned (if any) of the other Party.
- 14. Effects of Termination**
- Upon the termination of this Agreement, the following shall apply:
- 14.1 any sum owing by either Party to the other Party shall be payable by the Party owing the sum to the other Party;
- 14.2 all Clauses which, by their nature, relate to the period after the expiry or termination of this Agreement shall remain in full force and effect;
- 14.3 termination shall not affect the right to damages or other remedy in respect of the event giving rise to the termination or any other remedy which any Party may have in respect of the event giving rise to the termination before the date of termination;
- 14.4 subject as provided in Clause 9, neither Party shall be bound by or subject to the provisions of this Agreement;
- 14.5 each Party shall (either immediately or as soon as practicable) cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party all documents in its possession or control which contain Confidential Information.
- 15. No Waiver**
- No failure or delay by either Party in exercising its rights under this Agreement shall be deemed to be a waiver of any provision of this Agreement or any breach of the same or any other provision of this Agreement.
- 16. Further Assurance**
- Each Party shall execute all such deeds, documents and things as may be necessary to carry out the provisions of this Agreement and to give full effect to the provisions of this Agreement.

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tion or re-construction and in such a manner that the other Party shall be bound by or subject to the provisions of this Agreement.

foregoing under the law of any other Party;

to cease, to carry on business; or to be bound by any person or connected with the other Party on the date of this Agreement. The meanings ascribed thereto by the other Party shall be the meanings ascribed thereto by the other Party in the Corporation Tax Act 2010.

each shall be considered capable of remedy with the provision in question in all respects.

ven by this Clause 13 shall not prejudice any other rights or remedies concerned (if any) of the other Party in respect of the breach

on:

under any of the provisions of this Agreement and payable;

ir nature, relate to the period after the expiry or termination of this Agreement shall remain in full force and effect;

right to damages or other remedy in respect of the event giving rise to the termination or any other remedy which any Party may have in respect of the event giving rise to the termination before the date of termination;

except in respect of any accrued rights or obligations to the other; and

rrred to in Clause 9) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party all documents in its possession or control which contain Confidential Information.

of its rights under this Agreement shall be deemed to be a waiver of any provision of this Agreement or any breach of the same or any other provision of this Agreement.

deeds, documents and things as may be necessary to carry out the provisions of this Agreement and to give full effect to the provisions of this Agreement.

17. **Costs**

Subject to any provisions to the contrary, each Party shall pay its own costs of and incidental to the preparation, execution and carrying into effect of this Agreement.

18. **Set-Off**

Neither Party shall be entitled to set-off or sums received in respect of this agreement at any time.

19. **Assignment and Sub-Contracting**

19.1 [Subject to sub-Clause 19.2, neither Party may assign (otherwise than by floating charge) or sub-license any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder without the written consent of the other Party, which consent shall not be unreasonably withheld.

19.2 [The Supplier shall not assign or sub-contract any of the obligations undertaken by it through any other person or through suitably qualified and experienced member or sub-contractor shall, for the purposes of this Agreement, be deemed to be an act of assignment or omission of the Supplier.

20. **Relationship of the Parties**

Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, agency or other contractual relationship except as expressly provided in this Agreement.

21. **Non-Solicitation**

21.1 Neither Party shall, for a period of <<insert period>> after its termination of this Agreement, employ or contract the services of any person who is or was at any time engaged by the other Party at the express written consent of that Party].

21.2 Neither Party shall, for a period of <<insert period>> after its termination of this Agreement, solicit or entice away from the other Party any customer or supplier whose solicitation or enticement would cause damage to the other Party [without the express written consent of that Party].

22. **Third Party Rights**

No part of this Agreement shall be subject to the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

23. **Notices**

23.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, the authorised officer of the Party giving the notice.

23.2 Notices shall be deemed to have been given:

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23.2.1 when delivered by a registered messenger or other messenger (including a registered messenger) outside business hours of the recipient; or

23.2.2 when sent, by registered mail, and a successful return receipt is generated; or

23.2.3 on the fifth business day of ordinary mailing, if mailed by national ordinary mail.

In each case notice shall be given to the most recent postal or email address notified to the Parties.

24. Entire Agreement

24.1 This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and shall not be modified except by an instrument in writing signed by the Parties or their duly authorized representatives of the Parties.

24.2 Each Party acknowledges that, in entering into this Agreement, it does not rely on any statement, representation, warranty, assurance or other provision made by the other Party, as expressly provided in this Agreement, and all other terms implied by statute or common law are excluded.

25. Counterparts

This Agreement may be executed in any number of counterparts and by the Parties to it on separate occasions. Each counterpart when so executed and delivered shall be an original, but all counterparts together shall constitute one and the same instrument.

26. Severance

In the event that one or more provisions of this Agreement are found by any court or other competent authority to be unlawful, invalid, void or otherwise unenforceable, that / those provisions shall nevertheless be severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

27. Dispute Resolution

27.1 The Parties shall attempt to resolve any dispute arising out of or relating to this Agreement through their appointed representatives who have the authority to bind the Parties.

27.2 [If negotiations under 27.1 do not resolve the matter within <<insert period>> of the date of the last attempt to negotiate, the Parties will attempt to resolve the matter through an agreed Alternative Dispute Resolution (ADR) procedure.

27.3 [If the ADR procedure under 27.2 does not resolve the matter within <<insert period>> of the date of the last attempt to negotiate, or if either Party will not participate in the ADR procedure, the dispute may be referred to arbitration by either Party.

27.4 The seat of the arbitration shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed by the Parties. In the event that the Parties are unable to agree on a set of rules, the Rules for Arbitration, either Party may, upon giving written notice to the other Party, apply to the President or Deputy President of the Chartered Institute of Arbitrators for the appointment of an arbitrator and for any decision on rules of procedure.

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that may be required

27.5 Nothing in this Clause shall prevent either Party or its affiliates from applying to a court for an order

either Party or its affiliates from applying to a court for an order

27.6 Nothing in this Clause shall prevent either Party from referring relevant matters for Expert determination

either Party from referring relevant matters for Expert determination in Clause 8.

27.7 The Parties hereby agree that the decision and outcome of the final method of dispute resolution under this Clause shall [not] be final and binding on both Parties.

and outcome of the final method of dispute resolution under this Clause shall [not] be final and binding on both Parties.

28. Law and Jurisdiction

28.1 This Agreement (including all matters and obligations arising therefrom or associated with it) shall be construed in accordance with the law of England and Wales.

all matters and obligations arising therefrom or associated with it) shall be construed in accordance with the law of England and Wales.

28.2 Subject to the provisions of Clause 27, any dispute, controversy, claim, proceedings or claim (including any non-contractual disputes therewith) shall fall within the jurisdiction of the courts of England and Wales.

and 27, any dispute, controversy, claim, proceedings or claim (including any non-contractual disputes arising therefrom or associated with it) shall fall within the jurisdiction of the courts of England and Wales.

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<<Name and Title of person signing

Authorised Signature

Date: _____

SIGNED for and on behalf of the B
<<Name and Title of person signing

Authorised Signature

Date: _____

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