



STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS

1 DEFINITIONS

1.1 In these Conditions, the following words shall have the following meanings.

“Buyer”	the person or firm who purchases the Goods from OPM.
“Conditions”	the terms and conditions set out in this document as amended from time to time in accordance with condition 18.6.
“Contract”	the contract between OPM and the Buyer for the sale and purchase of the Goods in accordance with these Conditions.
“Costs”	all outgoings, payments, losses, liabilities, costs, claims, demands, charges, and expenses of any kind incurred in connection with litigation, professional fees, disbursements, and any value added tax to be charged on any of those items.
“Delivery Point”	to the location set out in the Order or such other location as the parties may agree in writing where delivery or collection of the Goods is to take place. Where no Delivery Point is specified, in the case of collection, this shall be OPM’s premises.
“FME”	any cause preventing OPM from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of OPM including without limitation, strikes, lockouts or other industrial disputes (whether involving the workforce of OPM or any other party); acts of God, including but not limited to fire, flood, storm, or other extreme weather conditions; war, terrorism, riot, civil commotion, malicious damage; compliance with any law or governmental order, rule, regulation or direction; accidents, including but not limited to the breakdown of plant or machinery; non-availability of raw materials or power supply; or default of supplies or sub-contractors; but, excluding the Buyer’s inability to pay or circumstances causing the Buyer’s inability to pay.
“Goods”	any goods which OPM is to supply to the Buyer (including any part or parts of them) set out in the Order.
“Incoterms”	the International Commercial Terms as published by the International Chamber of Commerce from time to time.
“Insolvency Event”	where the other party: (a) enters into liquidation or a winding up petition is presented against the company or a resolution is passed for the voluntary winding up of the company; (b) enters into administration or any steps are taken to place the company into administration such as the filing at court of a an administration application or a notice of intention to place the company into administration; (c) proposes to make any voluntary arrangements with its creditors or convenes a meeting of creditors (whether formal or informal); (d) has a receiver, liquidator, administrator, nominee, supervisor, trustee or an individual with a similar role appointed over any of its assets; (e) has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors; (f) is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or (g) suffers an event which, under the law of a different country, is equivalent to any of the previously specified acts or events.



“Losses”	all liabilities, damages, losses (including loss of profits, loss of business, loss of reputation, loss of savings and loss of opportunity), actions, claims, fines, expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and reasonable professional costs and expenses).
“OPM”	OPM (Labels & Packaging) Group Limited registered number 1045291 whose registered office is at The Colour Box, Gelderd Road, Leeds, LS12 6TG.
“Order”	the Buyer's order for the Goods.
“Proof”	a proof copy of any work, samples, examples or Goods, that once approved in accordance with condition 9.2.1, shall be the print ready artwork and considered final version of the Goods to be provided by OPM.
“Specification”	any specification for the Goods, including any related plans and drawings, that is supplied by the Buyer.

1.2 In these Conditions:

- 1.2.1 any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms;
- 1.2.2 clause and condition headings are included for ease of reference only and are not intended to form part of the Contract or carry any legal force; and
- 1.2.3 a reference to **writing** or **written** excludes fax and email.

2 BASIS OF CONTRACT

- 2.1 Subject to any variation under condition 2.3 the Contract will be on these Conditions to the exclusion of all other terms and conditions (including any terms and conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document or which are implied by law, trade custom, practice or course of dealing).
- 2.2 No terms or conditions endorsed upon, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract. The Buyer shall be unable to rely on such terms and conditions.
- 2.3 These Conditions apply to all of OPM's sales. Any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of OPM.

3 ORDERING

- 3.1 Each Order for Goods by the Buyer from OPM shall be deemed to be an offer by the Buyer to purchase Goods subject to these Conditions.
- 3.2 No order placed by the Buyer shall be deemed to be accepted by OPM until a written acknowledgement of order is issued by OPM or (if earlier) OPM delivers the Goods to the Buyer. Acceptance of delivery or collection (as applicable) of the Goods shall be deemed to be conclusive evidence of the Buyer's acceptance of these terms and conditions.
- 3.3 The Buyer must ensure that the terms of its order and any Specification are complete and accurate.
- 3.4 Any samples, drawings, descriptive matter or advertising produced by or on behalf of OPM and any descriptions or illustrations contained in OPM's catalogues or brochures (whether digital or otherwise)



are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

- 3.5 Any quotation is given on the basis that no contract will come into existence until OPM dispatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of 30 days only from its date, provided that OPM has not previously withdrawn it.
- 3.6 Subject to condition 6.9, no order that has been accepted by OPM may be cancelled by the Buyer except with the written consent of OPM and on terms that the Buyer will indemnify, keep indemnified and hold harmless OPM in full against all Losses (including loss of profit and the costs of all labour and material used), damages, charges and expenses suffered or incurred by OPM as a result of such cancellation.

4 GOODS

- 4.1 The Goods are described in OPM's quotation and/or the delivery note.
- 4.2 The Goods will materially conform to the Specification.
- 4.3 To the extent that OPM manufactures (or appoints a third party to manufacture) the Goods, or any part of the Goods, in accordance with a Specification supplied by the Buyer, the Buyer shall indemnify, keep indemnified and hold harmless OPM against all Losses incurred by OPM as a result of any claim that OPM's use of the Specification infringes the intellectual property rights of any third party. This condition 4.3 shall survive termination of the Contract.
- 4.4 OPM reserves the right to amend the Specification if required by any applicable law or regulatory requirement and shall notify the Buyer in any such event.
- 4.5 Unless specified otherwise in writing by the parties, due to the nature of the printing process, OPM reserves the right to deliver up to and including 10% more ("**Overrun**") or 10% less ("**Underruns**") than the quantity of Goods ordered by the Buyer. The Buyer agrees to accept and pay for the actual quantity delivered or made available for collection (as applicable) within this tolerance range and any such Overrun or Underrun shall be deemed performance of the contract. OPM will invoice the Buyer for the actual quantity of Goods delivered or made available for collection (as applicable) in accordance with condition 4.6.
- 4.6 If the quantity delivered or made available for collection (as applicable):
 - 4.6.1 exceeds the quantity ordered, up to and including the Overrun, the Buyer will be charged for the additional Goods; or
 - 4.6.2 exceeds the Underrun in condition 4.5, OPM will notify the Buyer as soon as practicable and the Buyer may accept the revised (lower) quantity of Goods or request a further print of Goods to meet the original order quantity.
- 4.7 OPM will use reasonable efforts to minimise Overruns and Underruns and ensure that the Goods delivered or made available for collection (as applicable) meet the agreed specifications and quality standards.
- 4.8 If the Buyer requires an exact quantity with no Overrun or Underrun, this must be specified prior to the Buyer placing an Order, and on the Order. Such requests may result in higher unit costs due to the additional precision and quality control required.

5 BUYER OBLIGATIONS

- 5.1 The Buyer shall, and shall procure that each of its employees shall provide:
 - 5.1.1 all materials, data and information as OPM may reasonably require in a timely manner and ensure it is correct and accurate in all respects; and

- 5.1.2 reasonable co-operation and assistance to OPM and complete all necessary tasks, recommendations and obligations as may be required by OPM.
- 5.2 The Buyer shall comply with all applicable laws, including relevant export control laws and regulations applicable to the Goods, and shall notify OPM of any of the foregoing that are specific to Delivery Location and may affect OPM's completion of its obligations.
- 5.3 If OPM's performance is prevented, hindered or delayed by a default of the Buyer (without limiting or affecting any other right or remedy available to it) OPM shall not be in breach of the Contract.
- 5.4 The Buyer shall notify OPM in writing in advance if it is knowingly going to be subject to (within the following 3 months from its notification) or is subject to an Insolvency Event.
- 6 DELIVERY**
- 6.1 If carriage of the Goods is required, the Goods shall be delivered or made available for collection (as applicable) by such means as OPM thinks fit.
- 6.2 Where the Delivery Point is in the United Kingdom, condition 6.11 shall not apply. Where the Delivery Point is outside the United Kingdom as stated in an Order: (a) condition 6.11 shall apply notwithstanding any other term of the Contract; and (b) the Incoterms referred to in condition 6.11 take priority over these Conditions in the event of any conflict or ambiguity.
- 6.3 OPM shall deliver the Goods to, or make the Goods available for collection (as applicable) from, the Delivery Point. The Buyer will, at its expense, provide at the Delivery Point adequate and appropriate equipment and manual labour for offloading the Goods. Delivery is completed on the arrival of the Goods at the Delivery Point.
- 6.4 Any dates specified by OPM for delivery or collection (as applicable) of the Goods are intended to be an estimate only and time for delivery or making the Goods available for collection (as applicable) shall not be made of the essence. If no dates are specified, delivery or making Goods available for collection (as applicable) will be within a reasonable time. Delivery of the Goods shall be accepted by the Buyer or its third parties (as applicable) at any time of day.
- 6.5 OPM shall not be liable for any delay in delivery of the Goods or making the Goods available for collection (as applicable) that is caused by an FME or the Buyer's failure to provide OPM with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 6.6 If for any reason the Buyer does not accept delivery of any Goods when they are ready for delivery (or collect the Goods when they are ready for collection, as applicable), or OPM is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licenses or authorisations:
- 6.6.1 risk in the Goods will pass to the Buyer (including for loss or damage caused by OPM's negligence);
- 6.6.2 the Goods will be deemed to have been delivered or made available for collection (as applicable); and
- 6.6.3 OPM may store the Goods until delivery or collection (as applicable) and the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance).
- 6.7 Unless expressly agreed otherwise by OPM in writing in relation to a specific delivery or collection of Goods, if 3 days after the date on which OPM notified the Buyer that the Goods were ready for delivery or collection (as applicable) the Buyer has not taken actual delivery of (or collected) them, OPM may (at its discretion) store (until the Buyer accepts delivery or collects the Goods), resell or otherwise dispose of part or all of the Goods and, without limiting its rights and after deducting reasonable costs and expenses related to storage (including insurance) and selling, charge the Buyer for any shortfall below the price of the Goods.
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- 6.8 If OPM delivers within the tolerances in condition 4.5 the Buyer may not reject them.
- 6.9 The Buyer indemnifies, keeps indemnified and holds harmless OPM against any liability and expense (whether arising under statute or common law) caused by the Buyer's failure to provide appropriate equipment and manual labour for off-loading (whether or not the off-loading is supervised by or on behalf of the Buyer) for any;
- 6.9.1 personal injury to or death of any of OPM's employees, agents or sub-contractors or any third party; and
- 6.9.2 damage to or loss of any property of OPM, its employees, agents or sub-contractors or any third party.
- 6.10 Where the Goods are to be delivered or made available for collection (as applicable) in installments, each delivery shall constitute a separate contract and failure by OPM to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the whole Contract as repudiated.
- 6.11 Where the Delivery Point is outside the United Kingdom, deliveries shall be made on the relevant Incoterms as set out in the Order, that shall in the event that the Order is silent, be on a DAP or Ex-Works basis (as decided by OPM in its sole discretion). The chosen Incoterm shall define the responsibilities, costs, and risks associated with the delivery of Goods, including but not limited to transportation, insurance, and customs clearance. Both parties shall comply with the obligations and responsibilities as outlined by the selected Incoterms.
- 7 DELAY AND NON-DELIVERY/COLLECTION**
- 7.1 Any delay in the delivery of the Goods shall not entitle the Buyer to terminate the Contract.
- 7.2 The quantity of any consignment of Goods as recorded by OPM upon dispatch from OPM's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery or collection (as applicable) unless the Buyer can provide conclusive evidence proving the contrary.
- 7.3 OPM shall not be liable for any non-delivery of Goods (even if caused by OPM's negligence) unless written notice is given to OPM within 14 days of the date when the Goods would in the ordinary course of events have been received or 4 days from the date the Goods should have been received in the case of postal transit.
- 7.4 Any liability of OPM for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.
- 8 TITLE AND RISK**
- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
- 8.1.1 at OPM's premises, at the time when OPM notifies the Buyer that they are ready for collection at OPM's premises; or
- 8.1.2 in the case of Goods to be delivered or made available for collection otherwise than at OPM's premises, at the time of delivery or making the Goods available for collection (as applicable) or if earlier the time specified in condition 6.10.
- 8.2 Title of the Goods shall not pass to the Buyer until OPM has received in full (in cash or cleared funds) all sums due to it in respect of:
- 8.2.1 the Goods; and



- 8.2.2 all other sums which are or which become due to OPM from the Buyer on any account.
- 8.3 Until title of the Goods has passed to the Buyer, the Buyer must:
 - 8.3.1 hold the Goods on a fiduciary basis as OPM's bailee;
 - 8.3.2 store the Goods (at no cost to OPM) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as OPM's property;
 - 8.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 8.3.4 maintain the Goods in satisfactory condition insured on OPM's behalf for their full price against all risks to the reasonable satisfaction of OPM. On request the Buyer shall produce the policy of insurance to OPM; and
 - 8.3.5 hold the proceeds of the insurance referred to in condition 8.3.4 on trust for OPM and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
- 8.4 The Buyer may resell the Goods before title has passed to it solely on the following conditions:
 - 8.4.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
 - 8.4.2 any such sale shall be a sale of OPM's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
- 8.5 Where OPM is unable to determine whether any goods are the Goods, the Buyer shall be deemed to have sold all goods of the kind sold by OPM to the Buyer in the order in which they were invoiced to the Buyer.
- 8.6 The Buyer's right to possession of the Goods shall terminate immediately if the Buyer:
 - 8.6.1 ceases to trade; is unable to pay its debts; and/or suffers an Insolvency Event;
 - 8.6.2 suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/performs any of his/its obligations under the Contract or any other contract between OPM and the Buyer; or
 - 8.6.3 encumbers or in any way changes any of the Goods.
- 8.7 OPM shall be entitled to recover payment for the Goods notwithstanding that title of any of the Goods has not passed from OPM.
- 8.8 The Buyer grants OPM, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored (including with vehicles) in order to inspect them, or, where the Buyer's right to possession has terminated or where title has not transferred to the Buyer, to recover them.
- 9 PROOFING PROCESS**
 - 9.1 OPM may send Proof(s) to the Buyer, prior to OPM printing the Goods (including digitally via pdf and/or hard copy GMG).
 - 9.2 The Buyer shall, within no more than 24 hours of OPM sending such Proof(s), either:
 - 9.2.1 confirm that it accepts the Proof(s) as the final Goods and that OPM may run such version for print. Confirmation cannot be rescinded once provided to OPM; or



- 9.2.2 subject to any limit on the number of requests as may be set by OPM from time to time, request that a change is made to the Proof(s) prior to running the version to print, including any spelling mistake corrections, changes to the text, size, number of colours, style and colour corrections.
- 9.3 OPM recommends an approval of the Proof(s) within the 24 hour period in condition 9.2 to ensure print jobs can be planned on press to avoid a delayed delivery date.
- 9.4 Where a:
- 9.4.1 confirmation is provided by the Buyer in accordance with condition 9.2.1, OPM shall run such Proof(s) to print; or
- 9.4.2 correction request is made in accordance with condition 9.2.2, OPM shall amend the Proof(s) and resubmit the Proof(s) to the Buyer for the Buyer's approval in accordance with condition 9.1.
- 9.5 OPM may not run the Proof(s) to print without the consent of the Buyer. OPM shall not be responsible for any Losses or delays suffered or incurred by the Buyer as a result of the Buyer's delay or failure to provide its consent to a Proof(s) and OPM shall not be held in breach of the Contract for failing to meet any deadlines (as may be agreed as binding or conditional in the Order) where such failure to meet any deadlines was directly or indirectly caused by the Buyer failing to provide or delay in providing such consent.
- 9.6 OPM may charge the Buyer for costs and expenses associated with any:
- 9.6.1 request by the Buyer to change a Proof(s) in accordance with condition 9.2.2 in excess of any limit on the number of requests set by OPM from time to time. Where no limit is set, the default limit shall be 1 individual change request to a Proof (i.e. one change to a spelling error only); and
- 9.6.2 additional hard-copy Proof(s).
- 9.7 OPM is not responsible for checking the Goods (or any Proof(s)) for any errors and/or incorrect or inaccurate content. OPM accepted no responsibility for any errors in Proofs that have been approved by the Buyer.
- 9.8 The Buyer agrees and acknowledges that the end Goods may be viewed differently by the end user, for example the end user may experience colour differences viewed via a particular device or on a colour matched screen or printed out on a colour matched device, and that OPM shall not be liable for such difference(s).

10 DEFECTS

- 10.1 Subject to conditions 10.2, 10.3 and 14.10, the Buyer may reject the Goods delivered to it that do not comply with condition 4.2, provided that:
- 10.1.1 in the case of a defect that is apparent on normal visual inspection, notice of rejection is given to OPM and the carrier of the Goods within 3 days of receipt by the Buyer; and
- 10.1.2 in the case of a latent defect, notice of rejection is given to OPM within 5 days of the latent defect having become apparent.
- 10.2 Defects shall not include any errors and/or incorrect or inaccurate content on the Goods that could have been identified by the Buyer during the proofing process, but were not, and OPM shall have no liability to the Buyer for such errors, incorrect content or inaccuracies.
- 10.3 If the Buyer fails to give notice of rejection, it shall be deemed to have accepted the Goods.



- 10.4 OPM shall not be liable for the Goods' failure to comply with the Specification in any of the following events:
- 10.4.1 the Buyer makes any further use of those Goods (including resale) after giving notice in accordance with condition 10.1;
 - 10.4.2 the defect arises because the Buyer failed to follow OPM's oral or written instructions for the storage or use of the Goods;
 - 10.4.3 the defect arises as a result of OPM following any drawing, design or specification supplied by the Buyer; or
 - 10.4.4 the defect arises as a result abnormal storage or working conditions.
- 10.5 If the Buyer rejects Goods under condition 10.1 then OPM shall (at its sole discretion) be entitled to repair or replace the rejected Goods. No refunds for such defective Goods shall be made unless agreed in writing by OPM. Once OPM has complied with this condition 10.5, it shall have no further liability to the Buyer for the rejected Goods' failure to comply with condition 4.2.
- 10.6 If the Buyer specifies that OPM is to use a particular third party manufacturer in respect of the production of the Goods, or any part of the Goods, the Buyer agrees that OPM shall not be liable for any defects within the Goods caused by that third party manufacturer or its processes, including in respect of any delivery of the Goods, or any part of the Goods, from the third party manufacturer to OPM or direct to the Buyer. The Buyer shall indemnify, keep indemnified and hold harmless OPM against all Losses incurred by OPM as a result of any such defects caused by a third party manufacturer. This condition 11.6 shall survive termination of the Contract.

11 PRICE

- 11.1 Unless otherwise agreed by OPM in writing the price for the Goods the transport charges and any additional costs (other than those set out in condition 11.3) shall be the price set out in OPM's written quotation/price list applicable at the time the Contract is made.
- 11.2 The calculation of transport charges shall consider relevant factors, including the country and specific location where the Goods are to be delivered; the total weight and volume of the Goods being shipped; and the chosen method of shipping, such as air freight, sea freight, or land transport.
- 11.3 The price for the Goods shall be exclusive of any import / export charges, customs duties, value added tax or any other applicable tax or fee which the Buyer will pay in addition when it is due to pay for the Goods and shipping.
- 11.4 Where OPM agrees to deliver the Goods otherwise than at OPM's premises, the Buyer shall be liable to pay OPM's charges for transport, packaging and insurance, in addition to the price.
- 11.5 Work produced, whether experimental or otherwise, at the Buyer's request will be charged in addition to the price, and paid by the Buyer.

12 PAYMENT

- 12.1 Payment of the price for the Goods is due 30 days from the date of invoice. Time for payment shall be of the essence.
- 12.2 No payment shall be deemed to have been received until OPM has received cleared funds.
- 12.3 All payments payable to OPM under the Contract shall become due immediately upon termination of this Contract despite any other provision.



- 12.4 All payments by the Buyer to OPM shall be made in GBP (British Pounds Sterling) unless otherwise agreed in writing by both parties. If payments are made in a currency other than the specified currency, the Buyer shall be responsible for any exchange rate differences and any additional bank charges or fees associated with the currency conversion.
- 12.5 The Buyer shall make all payments due under the Contract without any deduction whether by way of setoff, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by OPM to the Buyer.
- 12.6 The Buyer is responsible for any fees or charges associated with the chosen payment method.
- 12.7 OPM may appropriate any payment made by the Buyer to OPM to such of the Goods as OPM thinks fit despite any purported appropriation by the Buyer.
- 12.8 If the Buyer fails to pay OPM any sum due pursuant to the Contract the Buyer will be liable to pay interest to OPM on such sum from the due date for payment, OPM reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 12.9 OPM reserves the right to adjust prices to reflect significant fluctuations in exchange rates. Any such adjustments will be communicated to the Buyer prior to invoicing.

13 INTELLECTUAL PROPERTY

- 13.1 The Buyer grants OPM a fully paid-up, non-exclusive, royalty-free licence to use, copy and modify any materials provided by the Buyer to OPM for the term of the Contract for the purpose of providing the Goods to the Buyer and of OPM complying with its obligations.
- 13.2 The Buyer will fully indemnify, keep indemnified and hold harmless OPM against all Losses arising out of or in connection with the Contract, as a result of claims that are brought or threatened against OPM by any third party, and Losses which are suffered or incurred by OPM as a result of such claims, arising out of or in connection with any (or any alleged) infringement of copyright, design right, trade mark or other third party intellectual property rights.

14 LIABILITY

- 14.1 OPM shall not be liable for any Losses (including loss of profit) caused directly or indirectly by any delay in the delivery or collection of the Goods (even if caused by OPM's negligence).
- 14.2 The following provisions and the provision of condition 14, set out the entire liability of OPM (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of: (a) any breach of these Conditions; and (b) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 14.3 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract
- 14.4 Nothing in these Conditions excludes or limits the liability of OPM for death or personal injury caused by OPM's negligence or for fraudulent misrepresentation. **The Buyer's attention is in particular drawn to the provisions of condition 14.5.**
- 14.5 Subject to conditions 14.2 and 14.4:
- 14.5.1 OPM's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the Contract price paid by the Buyer; and



- 14.5.2 OPM shall not be liable to the Buyer for indirect, special or consequential loss, and any of the foregoing losses (whether direct or indirect, and howsoever caused): loss of goodwill or reputation; loss of profit or loss of sales (including loss of anticipated savings); and/or any consequential or indirect loss, damage or expense whatsoever, which arises out of or in connection with the Contract.
- 14.6 The Buyer shall indemnify OPM against all Losses, liability, actions, proceedings, costs, claims, damages or demands in any way connected with this Contract brought or threatened to be brought or threatened to be brought against OPM by any third party, except to the extent OPM is liable to the Buyer in accordance with these terms and conditions.
- 14.7 If the Buyer rejects OPM's recommendations as to the suitability of materials or adhesives, no liability is accepted in respect of any loss or damage arising from the use of those materials or adhesives.
- 14.8 Any property supplied by the Buyer in connection with the production of the Goods by the Buyer will be held by OPM at the Buyer's risk. Liability will not be accepted by OPM for defective Goods which arise from any defects in, or suitability of, the said property supplied to OPM.
- 14.9 Waste material associated with the production procedure may be destroyed, compacted, and sent for waste disposal by OPM in accordance with OPM's no waste to landfill policy.
- 14.10 The Buyer must notify OPM in writing of its intention to make a claim or complaint within 9 months from the date of delivery to have grounds to make a claim. Failure to provide such notification within this period shall result in OPM having no liability in respect of the claim.
- 14.11 Complaints submitted after the 12-month period may not be eligible for resolution under OPM's standard policy. However, OPM acknowledges that circumstances can vary. Buyers are encouraged to contact OPM regardless of the timeframe. Each case will be reviewed individually, and OPM will make reasonable efforts to assist.
- 14.12 This condition 13 shall survive termination of the Contract.
- 15 TERMINATION**
- 15.1 Without limiting its other rights or remedies, OPM may terminate the Contract with immediate effect by giving written notice to the Buyer if:
- 15.1.1 the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of it being notified in writing to do so;
- 15.1.2 one or more of the following applies to the Buyer: (a) it ceases to trade; (b) it is unable to pay its debts; and/or (c) it suffers an Insolvency Event; or
- 15.1.3 the Buyer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 15.2 Without limiting its other rights or remedies, OPM may suspend supply of the Goods under the Contract or any other contract between the Buyer and OPM if the Buyer becomes subject to any of the events listed in condition 15.1.1 to condition 15.1.3 (inclusive), or OPM reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.
- 15.3 Without limiting its other rights or remedies, OPM may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.
- 15.4 On termination of the Contract for any reason the Buyer shall immediately pay to OPM all of OPM's unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, OPM shall submit an invoice, which the Buyer shall pay immediately on receipt.
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15.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

15.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

16 FORCE MAJEURE

16.1 OPM shall not be deemed to be breach of the Contract or otherwise liable to the Buyer in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to an FME.

17 CONFIDENTIALITY

17.1 Each party undertakes that it shall not at any time during the Contract, and for a period of 2 years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by condition 17.2.

17.2 Each party may disclose the other party's confidential information:

17.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this condition 17; and

17.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

17.3 Neither party may use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

17.4 The parties shall also comply with any separate confidentiality agreement entered into. In the event of any conflict between the Contract and the separate confidentiality agreement, the confidentiality agreement shall take precedence.

18 OTHER IMPORTANT TERMS

18.1 **Bribery Act 2010, Modern Slavery Act 2015 and Criminal Finances Act 2017.** The Buyer shall comply with the Bribery Act 2010, Modern Slavery Act 2015 and the Criminal Finances Act 2017 and not do, or omit to do, any act that will cause OPM to be in breach of the Bribery Act 2010, Modern Slavery Act 2015 or the Criminal Finances Act 2017.

18.2 **Assignment and Transfer.** The Buyer may not subcontract, assign, delegate, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under the Contract without OPM's prior written consent (other than the right for third parties to collect the Goods on behalf of the Buyer). OPM may assign the Contract or any part of it to any person, firm or company. The Buyer shall be responsible for the acts and omissions of any third party to whom it has subcontracted, assigned, delegated, transferred, charged or otherwise disposed of all or any of its rights and responsibilities under the Contract, as if they were the acts or omissions of the Buyer.

18.3 **Further Assurance.** The Buyer shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to the Contract.

18.4 **Entire Agreement.** These Conditions (and the documents referred to within it) contains all the terms which the parties have agreed with respect to its subject matter and supersedes and extinguishes all agreements and understandings between the parties (whether oral or in writing) relating to such subject



matter. Each party acknowledges and agrees that it has not been induced to enter into the Contract by a statement or promise which it does not contain or is not contained in a document referenced within it. All warranties, conditions and other terms (whether express or implied) that are not set out in this agreement are (to the fullest extent permitted by law) excluded from the Contract.

- 18.5 **Third Party Rights.** Any person, company, limited liability partnership or other body recognized by law who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 18.6 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by each of the parties (or their authorised representatives).
- 18.7 **Waiver.** Failure or delay by OPM in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract. Any waiver by OPM of any breach of, or any default under, any provision of the Contract by the Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 18.8 **Severability.** If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 18.9 **Counterparts.** The Contract may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 18.10 **No Partnership/Agency.** The Contract constitutes a contract for the provision of services and not a contract of employment. Nothing in the Contract is intended to, or will be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.
- 18.11 **Costs.** The Buyer shall indemnify OPM, pursuant to Part 44.5 of the Civil Procedure Rules, against all Costs incurred by OPM, in connection with OPM's preservation, exercise and/or enforcement of any of its rights, or the attempted preservation, exercise and/or enforcement of any of its rights, under or in connection with the Contract. For the avoidance of doubt, the parties agree that OPM's Costs will be the subject of detailed assessment (time spent/hourly rate) on an indemnity basis if not agreed, and that Part 45 of the Civil Procedure Rules shall not apply.
- 18.12 **Time.** Time for performance of all obligations of the Buyer under the Contract is of the essence.
- 18.13 **Remedies.** Each right or remedy of OPM under the Contract is without prejudice to any other right or remedy of OPM whether under the Contract or not.

19 NOTICES

- 19.1 Other than agreements in condition 2.3 and/or 18.6, all communications between the parties about this Contract must be in writing and delivered by hand or sent by pre-paid first class post, facsimile transmission or electronic transmission:
- 19.1.1 (in case of communications to OPM) to its registered office or such changed address as shall be notified to the Buyer by OPM; or
- 19.1.2 (in case of communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of this Contract or such other address as shall be notified to OPM by the Buyer.
- 19.2 Communications shall be deemed to have been received:

- 19.2.1 if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);
- 19.2.2 if delivered by hand, on the day of delivery;
- 19.2.3 if sent by facsimile transmission or electronic transmission on a working day prior to 4.00pm, at the time of transmission and otherwise on the next working day.

20 ARBITRATION

- 20.1 Disputes arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, but excluding any debt claims, may (a) first be resolved by the parties by following OPM's complaints procedure in place from time to time; or (b) where it is not resolved by the parties within 30 days of the date on which the parties first tried to resolve the dispute, it may be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this condition 20. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English. The governing law of the agreement shall be the substantive law of England.

21 GOVERNING LAW AND JURISDICTION

- 21.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by the law of England and Wales.
- 21.2 Each party irrevocably agrees that the courts of England and Wales shall have the exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation save that claims for injunctive relief in relation to allegations of breach of confidence and any claims relating to intellectual property rights may be brought in any competent jurisdiction.