

Dated

2020

COMDRONIC LIMITED

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

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The customer's attention is drawn in particular to the provisions of clause 11.

1. INTERPRETATION

1.1 Definitions:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: these terms and conditions as amended from time to time in accordance with clause 13.5.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Customer: the person or firm who purchases the Goods and/or Services from the Supplier.

Force Majeure Event: has the meaning given in clause 12.

Goods: the goods (or any part of them) set out in the Order.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form or the Customer's acceptance of the Supplier's quotation (whether in writing or not).

Goods Specification: any specification for the Goods, including any related plans and drawings, that is agreed by the Customer and the Supplier and attached to the Supplier's quotation.

Services: the services, supplied by the Supplier to the Customer as set out in the Service Specification.

Service Specification: the description or specification for the Services provided by the Supplier to the Customer.

Supplier: **COMDRONIC LIMITED** (registered in England and Wales with company number 08907422).

1.2 **Interpretation:**

1.2.1 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.2 any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.2.3 a reference to **writing** or **written** includes emails.

2. **BASIS OF CONTRACT**

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Goods and/or Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Goods Specification and/or Service Specification are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Supplier issues an official order acknowledgement or pro forma invoice, at which point the Contract shall come into existence.

2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

2.5 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations of the Goods and/or Services are produced for the sole purpose of giving an approximate idea of the Goods and/or Services. They shall not form part of the Contract nor have any contractual force.

2.6 A quotation for the Goods and/or Services given by the Supplier shall not constitute an offer. The Supplier has absolute discretion to amend any quotation provided to the Customer after its date of issue.

3. GOODS

3.1 The Goods are described in the Goods Specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

4. DELIVERY

4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note that shows the date of dispatch, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods and special storage instructions (if any). Where Goods are being delivered by instalments the Supplier may detail this on the delivery note.

4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**).

4.3 Delivery is completed on the completion of loading of the Goods at the Delivery Location.

4.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay or failure in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 If the Supplier fails to deliver the Goods and the Customer has paid in full or part for the Goods, then, the Supplier may at its discretion refund the Customer less any deductions

made for any reasonable costs and expenses incurred by the Supplier in processing the refund.

4.6 If the Customer fails to accept or take delivery of the Goods, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:

4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am the day after the Customer fails to accept or take delivery of the Goods;

4.6.2 the Supplier may charge the Customer for the reasonable costs and expenses it incurs in rearranging a delivery to that Customer; and

4.6.3 the Supplier may charge the Customer for the reasonable costs and expenses it incurs if the Goods are to be returned to the Supplier.

4.7 If the Customer has not accepted or taken delivery of the Goods, then, the Supplier may resell or otherwise dispose of part or all of the Goods.

4.8 The Supplier may deliver the Goods by instalments, which may be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. SUPPLY OF SERVICES

5.1 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.

5.2 The Supplier shall use all reasonable endeavours to meet any dates specified to the Customer but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

5.3 The Supplier reserves the right to amend any Service Specification if necessary and shall notify the Customer in any such event.

5.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

6. QUALITY

6.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**Goods Warranty**) or for a period of 3 months after the provision of Services (**Services Warranty**) the Goods shall:

6.1.1 conform with the Goods Specification; and

6.1.2 be free from material defects in design, material and workmanship.

6.2 Subject to clause 6.3, if:

6.2.1 the Customer gives notice in writing to the Supplier within 3 days of receiving the Goods that some or all of the Goods do not comply with the Goods Warranty or Services Warranty set out in clause 6.1;

6.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and

6.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods.

6.3 The Supplier shall not be liable for the Goods' failure to comply with the Goods Warranty or Services Warranty set out in clause 6.1 in any of the following events:

6.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 6.2;

6.3.2 the Customer is in breach of clause 8.1.3;

6.3.3 the defect arises because the Customer failed to follow good trade practice regarding the use, handling, commissioning, installation, maintenance, servicing and testing of the Goods;

6.3.4 the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;

6.3.5 the Customer alters or attempts to repair such Goods without the written consent of the Supplier;

- 6.3.6 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 6.3.7 the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 6.4 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the Goods Warranty or Services Warranty set out in clause 6.1.
- 6.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

7. TITLE AND RISK

- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 7.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title shall pass at the time of payment of all such sums.
- 7.3 Until title to the Goods has passed to the Customer, the Customer may use the Goods but must:
- 7.3.1 ensure that the Goods remain readily identifiable as the Supplier's property;
 - 7.3.2 not remove, deface or obscure any identifying mark on the Goods;
 - 7.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 7.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 10.1; and
 - 7.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

7.4 If before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clause 10.1, then, without limiting any other right or remedy the Supplier may have:

7.4.1 the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and

7.4.2 the Supplier may at any time:

(a) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and

(b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. CUSTOMER'S OBLIGATIONS

8.1 The Customer shall:

8.1.1 co-operate with the Supplier in all matters relating to the supply of the Goods and/or Services;

8.1.2 provide the Supplier with such information as the Supplier may reasonably require to supply the Goods and/or Services, and ensure that such information is accurate in all respects; and

8.1.3 comply with the oral or written instructions provided by the Supplier in connection with the use, handling, commissioning, installation, maintenance, servicing and testing of the Goods and ensure that persons who use, handle, commission, install, maintain, service and test the Goods are familiar with the instructions.

8.2 If the Supplier's performance of any of its obligations is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

8.2.1 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.2; and

8.2.2 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

9. PRICE AND PAYMENT

9.1 The price of the Goods and/or Services shall be the price set out in the Order or any other documentation that the Supplier issues to the Customer.

9.2 The Supplier may, by giving notice to the Customer, increase the price of the Goods and/or Services to reflect any increase in the cost of the Goods and/or Services that is due to:

9.2.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

9.2.2 any request by the Customer to change the delivery date, quantity or type of Goods ordered, the Goods Specification or Service Specification; or

9.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

9.3 The price of the Goods and/or Services:

9.3.1 excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

9.3.2 excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

9.4 The Supplier may invoice the Customer for the Goods and/or Services on, before, or at any time after the date of dispatch.

9.5 The Customer shall pay the invoice in full and in cleared funds 30 days after the date of the invoice or any other date notified in writing to the Customer by the Supplier. Payment shall be made to the bank account nominated in writing by the Supplier. Time for payment is of the essence.

9.6 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of

4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

9.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

10. TERMINATION

10.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

10.1.1 the Customer 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 that party being notified in writing to do so;

10.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

10.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

10.1.4 the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

10.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods and/or Services under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 10.1.1 to clause 10.1.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

- 10.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract at any time with immediate effect by giving written notice to the Customer. Where the Contract is terminated by the Supplier and the Customer has paid for Goods that have not yet been received or Services that are yet to be carried out by the Supplier, the Supplier may refund the Customer, and such refund will be made in accordance with clause 4.5.
- 10.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.
- 10.5 Termination of the Contract 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 this Contract that existed at or before the date of termination.
- 10.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

11. LIMITATION OF LIABILITY

- 11.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- 11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 11.1.2 fraud or fraudulent misrepresentation;
 - 11.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - 11.1.4 defective products under the Consumer Protection Act 1987.
- 11.2 Subject to clause 11.1:
- 11.2.1 the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - 11.2.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount payable under the relevant Contract by the Customer.

11.2.3 This clause 11.2 shall survive termination of the Contract.

12. FORCE MAJEURE

12.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or/and default of suppliers or subcontractors used by the Supplier.

12.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

12.3 If the Force Majeure Event prevents the Supplier from supplying the Goods and/or Services for more than 6 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

13. GENERAL

13.1 Intellectual Property Rights

13.1.1 All Intellectual Property Rights in or arising out of or in connection with the Goods and/or Services shall be owned by the Supplier.

13.1.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.

13.2 Assignment and other dealings.

13.2.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

13.2.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

13.3 **Confidentiality.**

13.3.1 A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business, its products and services which the Receiving Party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 13.3 shall survive termination of the Contract.

13.4 **Entire agreement.**

13.4.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

13.4.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

13.5 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.6 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

- 13.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 13.8 **Notices.**
- 13.8.1 Any notice given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.
- 13.8.2 A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.8.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- 13.8.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 13.9 **Third party rights.** No one other than a party to this Contract shall have any right to enforce any of its terms.
- 13.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 13.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.