MEMBER OF
THE BOGE GROUP
SINCE 2023

COMPRESSED AIR & GAS SOLUTIONS

TERMS & CONDITIONS FOR SUPPLY OF GOODS

November 2026 Edition

These conditions apply to the provision of goods and delivery or installation services by the Company only. The Service Maintenance Agreement Terms & Conditions govern the supply of Maintenance Services, and those terms apply separately and independently of this Agreement.

1. **INTERPRETATION**

1.1 In these Terms:

"**Buyer**" means the person whose order (written or oral) for the Goods is accepted by the Company whose details are specified in the Order;

"**Company**" means BOGE Compressors Limited (CRN No: 3009782) whose registered office is at Units 10-12 Park Valley Mills, Meltham Road, Huddersfield, England, HD4 7BH

"**Contract**" means the contract for the purchase of Goods comprising these Terms and the Order;

"**Force Majeure Event**" means any circumstances beyond the reasonable control of the Company including, without limitation, any collapse of buildings, fire, explosion, flood, lightening, storm, act of God, pandemic or epidemic, strike, lock-out, or other industrial action, shortage of material or equipment, riot, civil commotion, terrorist attack, war, enemy action, the imposition of sanctions, embargo, or breaking off of diplomatic relations or any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;

"**Goods**" means the goods (including any instalment of the goods; any part of them; any parts; and/or excess materials) which the Company is to supply to the Buyer pursuant to an Order;

"**Intellectual Property Rights**" means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business names and domain names, rights to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"**Normal Working Hours**" means the hours of 8.00 a.m. to 4.30 p.m. (inclusive) on any Working Day;

"**Order**" the order for the Goodsto be agreed by the Company and the Buyer;

"**Terms**" means these TERMS & CONDITIONS FOR THE SUPPLY OF GOODS as expressly out in this document;

"UK GDPR" means the UK Data Protection Act 2018 and all legislation implementing data protection laws in the UK from time to time.

"**Working Day**" means any day other than Saturday or Sunday or a Bank or Public Holiday in England and Wales;

"**Equipment**" means the equipment, the description and location of which are shown in the Order; "**Location**" means the location of the Equipment shown in the Order, or any other location agreed from time to time between the parties in writing;

"**Maintenance**" means the repair and maintenance services provided by the Company pursuant to The Service Maintenance Agreement Terms & Conditions if expressly included in the Order.

1.2 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

1.3 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.4 The headings in these Terms are for convenience only and shall not affect their interpretation.

2. **BASIS OF CONTRACT**

2.1 The Company shall sell and the Buyer shall purchase the Goods detailed in the Order following the Company's acceptance of an Order. The Company's acceptance of the Order shall either be communicated in writing to the Buyer further to an acknowledgement of receipt or, if no such acknowledgement is sent, by supplying the Goods to the Buyer.

2.2 Any and all supply of Goods from the Company to the Buyer shall be subject to these Terms, which shall govern the Contract to the exclusion of any other terms to which the Buyer may purport any such Contract is made or purported to be made, or which are implied by law, trade custom, practice or course of dealing.

2.3 Orders are accepted by the Company entirely in its own absolute power without any requirement to exercise discretion and shall constitute an individual and separate Contract between the Company and the Buyer in relation to each Order.

2.4 No variation to the Contract shall be binding unless signed in writing by an authorised representative of the Company and the Buyer.

2.5 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in writing and signed by a duly authorised representative of the Company.

3. **THE GOODS**

3.1 The Goods shall be as described in the Order and in any specification supplied by the Company for such purpose.

4. **DELIVERY**

4.1 The Company will use its reasonable endeavours to supply the Goods on the date or dates specified in the Order, but any dates given for supply of the Goods are approximate only and the time of delivery or performance of the Company's obligations generally shall not be of the essence to any Contract. The Company shall not be liable for any delay in delivery of the Goods howsoever caused and any failure of the Company to supply the Goods (on any instalment thereof) by a specified date or dates shall not entitle the Buyer to repudiate or cancel the Contract. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

4.2 Where the Goods are to be supplied in instalments, each instalment shall constitute a separate contract. Any delay or defect in any instalment shall not entitle the Buyer to treat any other instalment or the Contract as a whole as repudiated.

4.3 Delivery of the Goods shall be deemed to have taken place:

4.3.1 upon the physical handing over by the Company of the Goods to the Buyer or its designated carrier or agent;

4.3.2 upon consignment of the Goods by the Company to the Post Office or other specified location at the request of the Buyer;

4.3.3 upon the removal of the relevant Goods from the Company's premises where the Company has, at the request of the Buyer, agreed to arrange or accommodate transportation of the Goods by its own transport or by carrier designated by the Company;

4.3.4 upon delivery of the Goods to an alternative location either at the request of the Buyer or due to the Buyer's failure or refusal to accept delivery at the originally specified location.

4.4 If the Buyer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Company may:

4.4.1 store the Goods at the Buyer's risk until actual delivery and, at the Company's discretion, charge the Buyer for the reasonable costs (including insurance) of storage; or

4.4.2 if the Buyer fails to take delivery of the Goods within fourteen days of notification that they are ready for delivery the Company shall have the right to sell, dispose of or otherwise deal with the Goods and the Buyer shall be liable to the Company for all loss (including loss of profits) or damage which the Company shall suffer in consequence of the Buyer's failure to take supply of the Goods or of such sale.

4.5 Non-delivery of the Goods shall be notified to the Company by the Buyer within seven days of the date of delivery indicated by the Company.

4.6 The Company and (where relevant) any carriers must be notified within seven days of delivery (or such shorter period as may be required by such third party carrier's standard terms) of any visible damage or shortage of the Goods and the Buyer must retain for inspection any damaged Goods and packaging.

4.7 The Company shall incur no liability whatsoever if the Buyer fails to notify the Company within the time limits specified in clauses 4.5 and 4.6 of non-supply, damage or shortage as above.

5. **QUALITY AND ACCEPTANCE**

5.1 The Company warrants that on delivery, and for a period of twelve (12) calendar months from the date of delivery (**Warranty Period**), the Goods shall:

5.1.1 conform in all material respects with their specification; and

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

5.2 Subject to clause 5.3, if:

5.2.1 the Buyer gives notice in writing to the Company during the Warranty Period within a reasonable time of discovery (and in no case within more than seven days) that some or all of the Goods do not comply with the warranty set out in clause 5.1;

5.2.2 the Company is given a reasonable opportunity of examining such Goods; and

5.2.3 the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Buyer's cost,

5.3 the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full. The Company shall use all reasonable endeavours to repair or replace defective Goods where it elects to do so within 10 Working Days and shall promptly notify the Customer if this timescale is or becomes impracticable for any reason (subject always to any applicable third party lead times). The Company shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:

5.3.1 the Buyer makes any further use of such Goods after giving a notice in accordance with clause 5.2;

5.3.2 the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;

5.3.3 the defect arises as a result of the Company following any drawing, design or specification supplied by the Buyer;

5.3.4 the Buyer alters or repairs such Goods without the written consent

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of the Company;

5.3.5 the defect arises as a result of excessive usage or excessive wear and tear, wilful damage, negligence, or abnormal working conditions;

5.3.6 the Goods differ from any previousspecification as a result of changes made to the Goods or to their specification if required to ensure they comply with applicable statutory or regulatory standards;

5.3.7 the Buyer fails to promptly notify the Company (in any event within 30 days) of the Buyer becoming aware of any defect or issue relating to the Goods at any time. Failure to disclose defects or suspected issues may lead to additional damage or loss which falls outside the scope of the Company's warranty.

5.3.8 the effected Goods are third party parts, materials or equipment which have not been manufactured by the Company. In such cases the Buyer shall only be entitled to the benefit of any such third party warranty or guarantee as is given by the relevant manufacturer to the Company; or

5.3.9 the Goods are used for a purpose which the Company does not commonly supply the Goods or is different from the purpose specified in the Order.

5.4 Except as provided in this clause 5, the Company shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Company under clause 5.2.

5.6 If the Buyer does not notify any visible damage to the Company within seven days of supply, the Buyer shall be deemed to have accepted them.

5.7 Save as expressly provided in these Terms, all warranties, conditions or other terms implied by statute or common law or regulation or any other theory of law are excluded to the fullest extent permitted by law.

6. **TITLE AND RISK**

6.1.1 The risk in the Goods shall pass to the Buyer: in the case of Goods to be collected from the Company's premises at the time when the Company notifies the Buyer that the Goods are available for collection; or

6.1.2 in the case of the Goods to be delivered otherwise than at the Company's premises, at the time of delivery as specified in clause 4.3 above or, if the Buyer fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

6.2 Title to the Goods shall not pass to the Buyer until the Company has received in cash or cleared funds payment in full of:

6.2.1 the price of the Goods; and

6.2.2 the price of all other goods and services agreed to be sold or supplied by the Company to the Buyer for which payment has become due.

6.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall:

6.3.1 hold the Goods as the Company's fiduciary agent and bailee;

6.3.2 keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Company's property;

6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Company's behalf from the date of delivery;

6.3.5 notify the Company immediately if it becomes subject to any of the events listed in clause 21.1.2 to clause 21.1.14; and

6.3.6 give the Company such information relating to the Goods as the Company may require from time to time,

but the Buyer may resell or use the Goods in the ordinary course of its business before the Company receives payment for the Goods. However, if the Buyer resells the Goods before that time, it does so as principal and not as the Company's agent and title to the Goods shall pass from the Company to the Buyer immediately before the time at which resale by the Buyer occurs.

6.4 Until such time as the property in the Goods passes to the Buyer, (and provided that the Goods are still in existence and have not been resold), the Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company. The Buyer grants the Company, its agents, representatives and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, and/or to ensure that the Buyer is complying with its obligations in clause 6.3 or, where the Buyer's right to possession has terminated to recover them.

6.5 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

6.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Buyer does so all monies owing by the Buyer to the Company shall (without limiting any other right or remedy of the Company) forthwith become due and payable.

6.7 In the event of certain Goods having been paid for by the Buyer and other Goods not having been so

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paid for the onus of proof shall be on the Buyer to show that any Goods remaining in its possession are Goods for which the Company has been paid.

6.8 Where the Company is unable to determine whether any Goods are the Goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have been sold all Goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

7. **SUPPLY OF THE SERVICES**

7.1 To the extent that the Company provides delivery or installation services to the Buyer under this agreement, if that is included in the Order Form, then subject to the Buyer complying with their obligations under clause 10 below, the Company shall use reasonable care and skill in carrying out such services;

8. **CONSUMABLES AND REPLACEMENT PARTS**

8.1 In this clause, "Consumables" shall mean oil, filters and cleaning materials.

8.2 The sale of Consumables to the Buyer whether or not in relation to the provision of Maintenance by the Company or straight purchase by the Buyer shall be made pursuant to this Agreement. Where consumables are not purchased by the Buyer, but are used by the Company in the provision of Maintenance, the Service Maintenance Agreement Terms & Conditions shall apply.

9. **SERVICES NOT INCLUDED**

9.1 Maintenance is not included with the supply of Goods except as part of an Order expressly including Maintenance which is made pursuant to The Service Maintenance Agreement Terms & Conditions of the Company as in force from time to time.

9.2 If the Buyer requires Maintenance or support services from the Company this shall be dealt with pursuant to the Company's Service Maintenance Agreement Terms & Conditions and not this Agreement.

10. **BUYER'S OBLIGATIONS**

10.1 The Buyer shall:

10.1.1 ensure that the terms of the Order and (if submitted by the Buyer) any specification for the Goods are complete and accurate;

10.1.2 co-operate with the Company in all matters relating to the Services;

10.1.3 provide the Company, its employees, agents, consultants and subcontractors, with access to the Buyer's premises, office accommodation and other facilities as reasonably required by the Company to provide the Services;

10.1.4 provide the Company with such information and materials as the Company may reasonably require to supply the Goods, and ensure that such information is accurate in all material respects;

10.1.5 prepare the Buyer's premises for the supply of the Goods;

10.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

10.1.7 keep and maintain all materials, equipment, documents and other property of the Company (**"Company Materials"**) at the Buyer's premises in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisation;

10.1.8 at all times keep the Equipment in the environmental conditions recommended by the manufacturer of the Equipment;

10.1.9 not move the Equipment from the Location without obtaining the prior written consent of the Company;

10.1.10 use the Equipment only in accordance with such instructions and recommendations relating to the care and operation of the Equipment as may be issued by the manufacturer of the Equipment or as may from time to time be advised by the Company;

10.1.11 arrange for and carry out daily and weekly maintenance routines (as required) in accordance with the original manufacturer's operating manuals; and

10.1.12 notify the Company immediately of any increase in running hours, unusual noises, vibrations and other occurrences in relation to the Equipment.

10.2 The Buyer shall ensure that the Company's representatives have full and free access to the Equipment and to any records of its use kept by the Buyer to enable the Company to perform its duties and enforce these Terms.

10.3 The Buyer shall provide the Company with such information concerning the Equipment, its application, use, location and environment as the Company may reasonably request to enable it to carry out its duties.

10.4 The Buyer shall take all such steps as may be necessary to ensure the security, health and safety of any of the Company's representatives who visit any premises of the Buyer.

10.5 If the Company's performance of any of its obligations in respect of the Goods is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation (**"Buyer Default"**):

10.5.1 the Company shall without limiting its other rights or remedies have the right to suspend performance of its obligations including the delivery of all further Goods until the Buyer remedies the Buyer Default;

10.5.2 the Company shall not be liable for any delay, costs or losses sustained or incurred by the Buyer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this clause 10.5; and

10.5.3 the Buyer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Buyer Default.

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11. **PRICE**

11.1 The price of the Goods shall be the price specified in the Order, or, where no price has been specified in the Order (or a quoted price is no longer valid), the price listed in the Company's published price list current at the date of delivery of the Goods. All prices quoted are valid for 60 calendar days only, after which time they may be altered by the Company without giving notice to the Buyer.

11.2 The Company reserves the right, by giving written notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost of the Goods (including the costs of labour, materials or other costs of manufacture); any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer; or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Company adequate information or instructions. The giving of such notice shall bind both parties to the new price.

11.3 Except as otherwise stated in writing by a duly authorised representative of the Company all prices for the Goods are given by the Company on an ex works basis, and where the Company agrees to supply any Goods otherwise than at the Company's premises, the Buyer shall be liable to pay the Company's charges for transport, packaging and insurance.

11.4 If the Buyer requests the Company repair a defect in or malfunction of the Equipment which is due to causes not covered by this Contract or covered under Maintenance, the Buyer shall be liable to pay for such services and costs incurred by the Company as an additional charge , at the Company's standard rates then in force from time to time.

11.5 The Company reserves the right to make additional charges if arrangements have been made between the parties to carry out delivery or other services on a specific date and the Company's representative is not allowed to carry out services or delivery on arrival.

11.6 There shall be added to the price, and the Buyer shall pay to the Company, any value added tax and any other tax or duty relating to the manufacture, transportation, sale or delivery of the Goods (whether initially charged on or made payable at a later date).

11.7 Prices are quoted exclusive of trade or quantity discounts which will only apply to an Order with prior written agreement of a duly authorised representative of the Company.

11.8 If the Company agrees to accept the cancellation by the Buyer of an Order placed with the Company and such cancellation is more than seven (7) Working Days after the Order has been accepted by the Company, the Company reserves the right to charge the Buyer a cancellation fee of 25% of the value of the Order, to cover costs incurred by the Company in relation to the Order.

12. **TERMS OF PAYMENT**

12.1 If the Company has granted the Buyer credit terms, payment for the Goods shall fall due 7 days after the date of the invoice or as otherwise agreed by the parties in writing.

12.2 In all other cases, unless expressly agreed otherwise in writing with a duly authorised representative of the Company, payment for the Goods must be received by the Company before supply of the Goods.

12.3 Where the Goods are to be delivered in instalments, payment in full for all the Goods shall fall due before the delivery of the first instalment unless expressly agreed otherwise in writing with a duly authorised representative of the Company.

12.4 Time for payment shall be of the essence of the Contract.

12.5 The Buyer shall not be entitled to set off or counterclaim any sums in reduction of sums due under the Contract.

12.6 If the Buyer fails to pay sums due on the due date for payment then, without limiting the Company's remedies under clause 21, the Company shall be entitled to charge the Buyer interest on the amounts due at a rate of 6% above the base lending rate in force from time to time of Barclays Bank plc from the due date for payment until the date of actual payment, before and after judgment.

13. **LIABILITY**

13.1 Nothing in these Terms shall limit or exclude the Company's liability for any liability which cannot legally be limited including liability for:

13.1.1 death or personal injury caused by negligence;

13.1.2 fraud or fraudulent misrepresentation;

13.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);

13.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or

13.1.5 defective products under the Consumer Protection Act 1987.

13.2 Subject to clauses 13.1 and 13.3:

13.2.1 the Company shall under no circumstances whatsoever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise under any theory of law, for:

13.2.1.1 loss of profits;

13.2.1.2 loss of sales or business;

13.2.1.3 loss of agreements or contracts; loss of anticipated savings;

13.2.1.4 loss of use or corruption of software; data or information;

13.2.1.5 loss of damage to goodwill;

13.2.1.6 any and all special, indirect or consequential losses howsoever arising.

13.2.2 the Company's total liability to the Buyer 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 charges paid for to the Company by the Buyer during the year concerned.

13.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

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13.4 This clause 13 shall survive termination of the Contract.

14. **DESIGN AND SPECIFICATION**

14.1 Drawings, weights, dimensions, specifications and other descriptive information supplied by the Buyer, whether written or verbal, are warranted by the Buyer to be in all respects accurate, complete and suitable for the Buyer's requirements.

14.2 Drawings, weights, dimensions, shipping specifications and other descriptive matters produced by the Company are approximate and are not intended to be binding upon the Company, unless specified otherwise in the Contract.

14.3 The Company reserves the right to alter the specification of any Goods without prior reference to the Buyer, provided that the Goods comply substantially in all other known respects with the Buyer's requirements.

15. **TESTS AND PERFORMANCE**

15.1 If the Buyer has agreed with the Company that the Goods shall be tested, the Buyer shall be liable to pay the Company the costs of those tests.

15.2 If the Buyer has requested that it be present and/or represented as such tests, the Company shall give the Buyer seven days' notice of the time and place of the tests. Should the Buyer fail to attend, the tests will proceed in the absence of the Buyer and shall be deemed to have been performed in the Buyer's presence.

15.3 If the Goods fail to fulfil any estimated performance figures agreed between the Company and the Buyer, the Buyer shall permit the Company reasonable time to work upon the Goods in order to improve the performance figures to a satisfactory level.

16. **SAMPLES AND RETURNS**

16.1 Any samples supplied by the Company to the Buyer must be returned carriage paid, in substantially the same condition as they had been when supplied, within one calendar month of supply, or the Buyer will be liable to pay the Company the full price of those samples.

16.2 Return of any Goods sent in accordance with the Buyer's Order cannot be accepted unless the Company has agreed in writing to accept their return. It is a requirement that the Goods be insured and carefully packed by the buyer.

17. **BUYER'S MATERIALS AND PROPERTY**

17.1 Where the Company undertakes work with the Buyer's own materials or property, it is on the express understanding that, unless otherwise agreed in writing by a duly authorised representative of the Company, while the Company will endeavour to avoid damage, it shall not be liable for any damage to such materials or property caused by the work howsoever arising.

17.2 The buyer is responsible for insuring the goods (not withstanding the Company's reservation of the title set out in these terms) as well as its other materials or property against all risks while in the possession, power or control of the Company and the Company shall not be liable for the loss or damage to such during such time.

18. **INTELLECTUAL PROPERTY**

18.1 All Intellectual Property Rights in or arising out of or in connection with the Goods shall be owned by the Company.

18.2 The Buyer acknowledges that, in respect of any third party Intellectual Property Rights in the Goods, the Buyer's use of any such Intellectual Property Rights is conditional on the Company obtaining a written licence from the relevant licensor on such terms as will entitle the Company to license such rights to the Buyer, unless the Buyer takes their own licence to such things independently of the Company.

18.3 All Company Materials are the exclusive property of the Company.

18.4 The Buyer shall indemnify the Company against all actions costs (including the cost of defending any legal proceedings), claims, proceedings, accounts and damages in respect of any infringement of any Intellectual Property Rights of a third party which arise as a result of anything provided by the Buyer including the Company complying with the Buyer's instructions, whether express or implied.

19. **CONFIDENTIALITY**

A party (**"Receiving Party"**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, pricing, 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 or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 19 shall survive termination of the Contract.

20. **Data – "Connect" monitoring system:**

20.1 The Buyer acknowledges that operating data will be generated in connection with the use of certain Goods which are fitted with the "Connect" monitoring system.

20.2 The Company shall have access to such operating data through the "Connect" monitoring system where this system is incorporated into the Goods. Such data will be automatically transmitted to the Company by the relevant Goods.

20.3 The operating data is primarily performance and technical data which enables the Company and third parties authorised by it to monitor the smooth operation and functionality of the Goods and in the event of problems facilitate rapid and sustainable troubleshooting and quality assurance for the Goods as well as improvement of the Goods and the Company's products overall. It is also agreed that the Company shall be able to aggregate such data with data from other products for commercial and/or statistical purposes and share such aggregated data with third parties.

20.4 Subject to payment of a set-up charge and monthly usage fee the Buyer may also use the functions of the Connect system where access to it is provided to the Customer by the Company either on delivery of the

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Goods or at a later date.

20.5 The use of data under this clause 20 shall be without limitation in time.

20.6 The collection and transmission of data may occasionally be impaired or interrupted and the Company may use reasonable endeavours to resolve such issues.

20.7 It is not anticipated that any personal data will be captured or transferred as part of this process, however to the extent personal data is captured both parties agree to handle it in accordance with data protection laws and any other relevant legal obligations. In particular where either party processes personal data on behalf of the other it shall comply with the provisions of article 28 of the EU or UK GDPR as applicable and each party shall use the personal data that it processes for the other only for those purposes and only for so long as strictly necessary for those purposes and shall not transfer it outside the UK/EU or to any other person and will return it to the other or destroy it once those purposes are complete.

21. **DEFAULT AND TERMINATION**

21.1 Without limiting its other rights or remedies, where the Buyer:

21.1.1 commits a material breach of its obligations under a Contract and (if such breach is remediable) fails to remedy that breach within 7 days after receipt of notice in writing of the breach; or

21.1.2 repeatedly breaches any of the terms of any Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of any Contract;

21.1.3 suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ("IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;

21.1.4 commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

21.1.5 applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;

21.1.6 has a petition filed, notice given, a resolution passed, or an order made, for or in connection with the winding up of it (being a company, limited liability partnership or partnership);

21.1.7 has a creditor or encumbrancer of it attach or take possession of, or has a distress, execution, sequestration or other such process levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

21.1.8 has an application made to court, or an order made, for the appointment of an administrator or if notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer (being a company, partnership or limited liability partnership);

21.1.9 has a floating charge holder over the assets of it (being a company or limited liability partnership) which has become entitled to appoint or has appointed an administrative receiver;

21.1.10 has a person become entitled to appoint a receiver over all or any of the assets of it or a receiver appointed over all or any of the assets of it;

21.1.11 (being an individual) is the subject of a bankruptcy petition, application or order;

21.1.12 has any event occur, or proceeding taken, with respect to it in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause

21.1.13 21.1.3 to clause 21.1.1011 (inclusive); suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;

21.1.14 (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation;

21.1.15 has its financial position deteriorate so far as to reasonably justify the opinion that its ability to give effect to the terms of this Contract is in jeopardy; or

21.1.16 fails to pay sums due on the due date for payment; the Company may exercise any of the rights specified in clause 21.2.

21.2 If clause 21.1 applies then, without limiting any other right or remedy available to the Company, the Company may:

21.2.1 cancel the Contract or suspend any further deliveries of Goods and/or the performance of any other obligation under the Contract;

21.2.2 if the Goods have been delivered or supplied but the Buyer has not paid for them, require the price to become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary;

21.2.3 withdraw any credit facility or right to discount from the Buyer;

21.2.4 appropriate any payment made by the Buyer to such of the Goods (or the Goods supplied under any other contract between the Buyer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Buyer);

21.2.5 sell to third parties Goods ordered but not delivered under this or any other contract between the Company and the Buyer; and

21.2.6 where title to the Goods has not passed to the Buyer, terminate immediately the Buyer's right to possession of the Goods and the Company shall be entitled to enforce the provisions of clause 6 and in particular clause 6.4.

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21.3 In the event of the Contract being cancelled by the Company in the circumstances specified in clause 21.1 or being cancelled by the Buyer, the Buyer shall indemnify the Company against all its costs (including loss of profits, labour, materials and overheads) and all expenses and damages incurred by the Company in connection with the Contract and its cancellation (the Company giving credit for the value of the materials sold or utilised for other purposes).

21.4 The Company may terminate any or all Contracts by giving the Buyer one month's notice in writing.

22. **CONSEQUENCES OF TERMINATION**

On termination or expiry of the Contract for any reason:

22.1.1 the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Goods or additional services supplied but for which no invoice has yet been submitted, the Company shall submit an invoice, which shall be payable by the Buyer immediately on receipt;

22.1.2 the Buyer shall return all of the Company Materials. If the Buyer fails to do so, then the Company may enter the Buyer's premises and take possession of them. Until they have been returned, the Buyer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

22.1.3 the accrued rights and remedies of the parties as at termination or expiry shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

22.1.4 clauses which expressly or by implication have effect after termination or expiry shall continue in full force and effect.

23. **FORCE MAJEURE**

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

23.2 If the Force Majeure Event prevents the Company from providing any Goods or related services for more than six calendar months, the Company shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Buyer.

24. **NOTICES**

24.1 A notice or other information required to be given by either party to the other may be given by hand or sent by first class pre-paid post to the other party at the address referred to in the Contract.

24.2 A notice delivered by hand shall be deemed to have been received at the date and time that the notice is left at the proper address.

24.3 A notice given by post shall be deemed to have been given on the second Working Day after the envelope containing it was so posted; and proof that the envelope containing any such notice or information was properly addressed, and sent by first class, pre- paid post, shall be sufficient evidence that such notice or information has been duly given.

24.4 A notice or other transmission or any legal proceedings concerning or arising out of the Contract shall be addressed to the company secretary of the party in question at its registered office, or to such other officer or at such other address as may be notified by the party in question in writing from time to time, in accordance with this clause 24.

25. GENERAL

25.1 Severance:

25.1.1 If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

25.1.2 If any provision or part provision of the Contract is deemed deleted under clause 25.1.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

25.2 **Waiver:** No failure on the part of either party to the Contract to exercise any rights 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 any such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

25.3 **Assignment:**

25.3.1 The Buyer shall not without the prior written consent of the Company assign transfer or sub-let the benefit or the burden of the Terms or any part of a Contract.

25.3.2 The Company may assign, transfer or sub-contract any Contract or any part of a Contract to any other person or company.

25.4 **Third Parties:** A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

25.5 **No Partnership:** Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of the other party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

25.6 **Variation.** Except as set out in these Terms, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

25.7 Entire agreement.

25.7.1 The Contract constitutes the entire agreement between the parties.

25.7.2 Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it has no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

25.8 **Governing Law:** This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England.

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