

These terms and conditions together with the documents referred to in them tell you the basis on which we will supply to you our goods ("**Goods**") and services ("**Services**"). By ordering any of the Goods or Services, you agree to be bound by these terms.

**IN PARTICULAR WE DRAW YOUR ATTENTION TO CLAUSE 19 BELOW WHERE WE LIMIT OUR LIABILITY TO YOU.**

You should retain a copy of these terms for future reference.

**1 INFORMATION ABOUT US.**

1.1 The Goods and Services are by Performance Oils Ltd, 59, Rickmansworth Road, Amersham, Buckinghamshire, HP6 5JW. ("**we/us/our**").

1.2 We are registered in England and Wales and have our registered office at 59, Rickmansworth Road, Amersham, Buckinghamshire, HP6 5JW.

1.3 Our company number is 05084554 and our VAT registration is 841 7650 22

**2 YOUR STATUS**

2.1 You acknowledge that:

2.1.1 These terms apply when you purchase goods and services at our warehouse, through our websites:

[www.performanceoilsltd.co.uk](http://www.performanceoilsltd.co.uk) via our Facebook pages TWR and Amsoil UK Performance Oils Ltd)

(the "**Website(s)**") and any other means of placing an order with us (the "**Order**") only in the course of a business, trade or profession ("**Business Customer**") for resale and you hold a trade account or cash account with us; and

2.1.2 **WE DO NOT SELL DIRECT TO RETAIL USERS UNDER THESE TERMS AND CONDITIONS UNDER ANY CIRCUMSTANCES.**

2.2 By placing an order with us, you warrant that:

2.2.1 you are legally capable of entering into binding contracts;

2.2.2 the information you provide to us during the process of placing an order for Goods and/or Services is accurate, complete and not misleading.

**3 APPLICATION**

3.1 These terms and conditions apply to all sales of Goods and/or Services provided by us to you.

3.2 No contract for the supply of Goods and/or Services ("**Contract**") will come into existence until we despatch the Goods, send you an email confirming that your Goods have been despatched, delivered the goods or start performing the Services (whichever is the earlier).

3.3 Each order for Goods and/or Services by you to us will be deemed to be an offer by you to purchase Goods and/or Services subject to these terms. Each order placed by you to us for Goods and/or Services and accepted by us will constitute a separate contract.

3.4 You must ensure that the terms of your order and any applicable specification are complete and accurate.

3.5 These terms will be incorporated in the Contract to the exclusion of all other terms and conditions. They supersede all prior dealings, negotiations, representations or agreements between us in respect of the subject-matter of the Contract whether written or oral.

3.6 No variation or amendment of this Contract will be valid unless in writing and signed by you and us.

**4 GOODS AND SERVICES**

4.1 All brochures, specifications, drawings, catalogues, particulars, shapes, descriptions and illustrations, application guides and information, price lists and other advertising matter are intended only to present a general idea of the Goods and Services described in them and the images of the Goods on the website or otherwise are for illustrative purposes only.

4.2 We reserve the right to deliver Goods of a modified design provided that any difference does not make the Goods unsuitable for any purpose you have made known to us.

4.3 The Goods will conform in all material respects to any sample provided to and accepted by us. The Goods and Services will conform in all material respects with any specification provided to and accepted by us. We reserve the right to amend any design or specification without prior notification provided that it does not adversely affect the performance of the Goods and Services.

4.4 We cannot guarantee that the appearance and/or colours of Goods (including without limitation paint) shown on the website or otherwise exactly reproduces the appearance and/or colours of the physical Goods

themselves. Natural products may show some colour variations against your vehicle colour (whereby such colour may have been distorted due to weather conditions). Where we agree to provide a specifically mixed paint product, you agree to check the accuracy and suitability of such product and use in accordance with any manufacturer's guidance and instructions provided.

4.5 Please note that tools used to identify mixed paint products via printed samples or the manufacturer's identification code or electronically analysed indicate the approximate colour of the product only, and are not representative of other characteristics such as the quality, durability or sheen of the eventual product purchased. We do not undertake the painting of products ourselves if required and cannot guarantee an exact match to what you have or require.

4.6 We recommend that if you have any concerns about paint matching or colour or finish that you order such products from us unpainted or in primer.

4.7 We retain all copyright and title to all documentation relating to Goods delivered to you by us. This documentation may only be used for the purposes intended in the Contract and not for any other purpose without our permission. It must be returned on demand.

4.8 Technical specifications are approximations unless specifically stated otherwise or specifically requested by you and agreed in writing by us..

4.9 You will not remove, alter, deface, obfuscate or tamper with any of the trade marks, names or numbers affixed to or marked on the Goods nor allow anyone else to do so.

4.10 If the Goods are manufactured in accordance with any design or specification provided or made by you, you will compensate us in full on demand for all claims, expenses and liabilities of any nature in connection with them, including any claim, whether actual or alleged, that the design or specification infringes the rights of any third party.

## **5 PROMOTIONS AND INCENTIVES**

5.1 On occasions we will offer promotional codes and discounts herein described as 'Promotional Codes' (including without limitation discounts, offers, promotions, prize draws, vouchers, competitions etc) via different channels to new and/or existing Business Customers.

5.2 By using any Promotional Code, you are agreeing to the following;

### **5.3 General Terms of usage**

5.3.1 A Promotional Code may on occasions only be redeemable online at our website [www.performanceoilsltd.co.uk](http://www.performanceoilsltd.co.uk). Discounts and/or free items cannot be redeemed via telephone or mail order unless expressly agreed in advance..

5.3.2 A Promotional Code cannot be used in conjunction with any other offer, discount or promotion. Only one Promotional Code can be used per transaction.

5.3.3 A Promotional Code is redeemed by entering such code at the appropriate point on the online purchase order process for a qualifying purchase or in the case of discounts, offers, vouchers and/or free items, as expressly advertised.

5.3.4 A Promotional Code is not exchangeable for cash and is not to be used in conjunction with any other offer, discount or promotions. Unless expressly agreed in advance, Promotional Codes cannot be used for the purchase of gift vouchers and/or gift cards.

5.3.5 The Promotional Codes are non-transferable.

5.3.6 The Promotional Codes are non-refundable

5.3.7 We accept no responsibility for Promotional Codes that do not work or have expired prior to their use on our website.

### **5.4 Period Of Use**

5.4.1 A Promotional Code is only valid during the period determined by us.

5.4.2 If no period is specified above, the Promotional Code shall be valid for no longer than we may determine, or for single use only irrespective of the number of purchases made.

5.4.3 We reserve the right to (i) cancel or withdraw any Promotional Code, (ii) refuse to allow any Business Customer to participate in the Promotional Code, (iii) decline to accept orders where, in our sole opinion the Promotional Code is invalid for the order being placed (iv) exclude any single or group of products from any general promotion (such excluded products can be found on the applicable promotion or if during an online order

process at the relevant checkout stage upon entry of the Promotional Code) and (v) amend this clause 5 (and we will use reasonable endeavours to notify changes to Business Customers so affected).

#### **5.5 Returns of Goods or cancellation of order**

5.5.1 In the case of a free item being offered, such as stickers or pouring spouts all items are subject to availability and we reserve the right to substitute such free item for any reason, for that of similar quality and value.

5.5.2 In the case of a returned order, any free items must be returned as new, at the same time in its original packaging and the product documentation, with proof of the Promotional Code used and at your own cost and risk. The Goods must not have been used and, where applicable, must not have been removed from the sealed clear packaging. This includes electrical items, which are supplied in sealed clear packaging. Failure to return the item as new, or in part, whole or at all, then we reserve the right to deduct the full price of the free part from your credit.

5.5.3 In the case of a credited part or order, only the amount paid (less the cost of any free item if applicable) will be credited.

5.5.4 Where the redemption of a Promotional Code or Free Carriage is subject to a minimum spend requirement, redemption is only permitted in respect of the purchase of the qualifying products (as communicated to you when issuing the Promotional Code).

5.5.5 Where a Promotional code has been communicated via email the Promotional Code is non-transferable and the email address provided with the order must be the same as the email address to which the Promotion was sent.

5.6 Where there is any conflict in this clause 5 with any other terms whatsoever attached to any other advertising material in respect of such Promotional Code, this clause 5 shall apply. This clause 5 shall only apply to Promotional Codes and Goods or Services purchased by you using such Promotional Codes and the remaining clauses shall continue to apply otherwise.

#### **6 PRICES**

6.1 Subject to clause 6.2, the prices of the Goods and Services will be as quoted at the time the Business Customer places the Order except in cases of error (see clause 6.2.2). The prices may be altered at any time without notification to take into account any increase in our costs (including but not limited to the cost of materials, labour, transport or other overheads, any tax, duty or variation in exchange rates).

6.2 The price you pay for Goods and Services purchased an Order is the price displayed at the time we receive your Order apart from the following exceptions:

6.2.1 For Goods purchased online via website or via any other reservation service the price you pay is the price on the day of the order.;

6.2.2 While we try and ensure that all our prices quoted at the time of the Order are accurate, some prices may be incorrectly listed on our internal management systems and /or on our website. If we discover an error in the price of the Goods you have ordered we will inform you as soon as possible and offer you the Goods at the correct price. We are under no obligation to provide Goods or Services to you at an incorrect, lower price, even after we have acknowledged your order or started performance of the Services. If we cannot contact you, we will treat the order as cancelled. If payment has been made and you wish to cancel your order, you will receive a full refund of the price paid.

6.3 Where there is no error in our pricing as per clause 6.2.2 or otherwise, the price that you pay for the Goods and Services will be those ruling (in the case of Goods) at the date of despatch of the Goods or (in the case of Services) our confirmation of the start date of the Services.

6.4 We list prices as both inclusive and exclusive of VAT. All prices are exclusive of any other sales tax or duty that may be applicable which will be payable in addition to the price unless otherwise stated. 6.5 Unless otherwise specified, prices quoted include delivery to destinations in the United Kingdom for good up to and including 24Kgs total weight and we will select the mode of transport. The entire cost of any other mode of transport which you may specify will be borne by you, as will delivery to locations outside of the United Kingdom.

6.6 In case of small orders we will be entitled to make a minimum order charge or to add a surcharge for delivery, details of which will be provided to you at the time of order acknowledgement.

6.7 No allowance will be credited for Goods collected from our premises by you rather than delivered by us.

## **7 QUOTATIONS**

7.1 Unless otherwise stated all quotations are valid only for 30 days from their date of issue..

## **8 PAYMENT**

8.1 If you hold an old credit/trade account with us we will continue to honour the original terms unless it become impossible for us to reasonably do so. We no longer accept new credit accounts.

8.2 Where you do not hold a credit account with us, payment of invoices will be made in full to us without deductions or set-off in cash/guaranteed cheque/credit or debit card when order is placed or on delivery.

8.3 We reserve the right to charge a credit card surcharge if you elect to pay us by credit card.

8.4 Payments by credit or debit card will only be accepted where the card holder is present in person at our premises or where the card in question has been verified on the Website.

8.5 Without prejudice to any other rights that we may have (including the right to suspend any further deliveries or installation), if you fail to pay the invoice price by the due date we may charge you interest on any overdue amount from the date of which payment was due to that on which it is made (whether before or after judgment) on a daily basis in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and reimburse to us all costs and expenses (including legal costs) incurred in the collection of any overdue amount.

8.6 All cheques provided to us by Business Customers who do not hold a credit account with us will be presented for payment prior to the goods being dispatched.. In the event of a cheque not clearing by our bank and being represented or returned to the drawer, we reserve the right to contact you and will charge a fee of a minimum of £25 for each cheque so returned to cover bank charges and administration costs. We may apply additional charges and/or vary their charges from time to time and any charges applied will have to be paid by you. For all cheques provided to us by Business Customers with credit accounts, which when cashed by us, are not cleared by our bank and are being represented or returned to the drawer, we shall charge £25 for each cheque so returned to cover our bank and administration charges. To avoid the aforementioned charges we advise that you have the sufficient and cleared funds in your account when making any payment to us.

## **9 DELIVERY**

9.1 The Goods are delivered to you when we make them available to you at a delivery point agreed by us.

9.2 Time of delivery will not be of the essence and any delivery date is an estimate only. We will use all reasonable endeavours to avoid late deliveries. You will have the right to cancel any order without liability to us if delivery is more than 30 days late. This clause 9.2 sets out your only remedy for such delay.

9.3 The quantity of any consignment of Goods as recorded by us upon despatch from our place of business will be conclusive evidence of the quantity received by you on delivery unless you can provide conclusive evidence proving the contrary.

9.4 Our liability for non-delivery of the Goods will be limited to, at our discretion, replacing the Goods within a reasonable time, issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods or a refund of the purchase price paid.

9.5 Any claim that any Goods have been delivered damaged or do not materially comply with their description will be notified by you to us and (where appropriate, to the carrier) within 7 days of their delivery. Provided that you return such Goods to us in accordance with clause 15, we will at our sole discretion replace such Goods, issue you with a credit note for the price of such Goods or refund the price paid for such Goods. The provisions of this clause 9.5 set out your sole remedy in such circumstances.

9.6 Any claim that any Goods have not been delivered to you by us or our appointed carriers where we claim we have delivered the same to you or our appointed carriers have obtained a signature for the delivery of the Goods, such claim must be notified by you to us within 7 days of their expected delivery, We shall then liaise with our carrier and/or our driver and we may require copies of two forms of personal identification documents from you (such as passport, driving licence, bank card etc). Once we have reviewed all documentary evidence and statements from the relevant drivers we shall then come back to you within a reasonable timescale of our decision (to replace such Goods, issue you with a credit note for the price of such Goods, refund the price paid for such Goods or to not provide any of the aforementioned) which shall be final and binding. The provisions of this clause 9.6 sets out your sole remedy in such circumstances.

9.7 We may at our discretion deliver the Goods by instalments in any sequence. Where the Goods are delivered by instalments, no default or failure by us in respect of any one or more instalments will vitiate the Contract in respect of the Goods previously delivered or undelivered Goods.

9.8 If you fail to take delivery of the Goods or accept performance of the Services or any part thereof at the time agreed for delivery then we will be entitled to cancel or suspend such delivery and all other outstanding deliveries and to charge you for the loss suffered.

## **10 UNLOADING**

10.1 It is your responsibility to provide the means for unloading Goods on delivery unless agreed by us in writing. Otherwise we will inform you in advance if any special means will be required to unload the Goods at your premises.

## **11 STORAGE AND DISPOSAL**

11.1 If you fail to take delivery of the Goods when they are ready for delivery we may, at our option, either store them ourselves or have them stored by third parties on such terms as we may in our own discretion think fit. In any event the cost of storage will be borne by you.

11.2 You shall:

11.2.1 be responsible for the collection, treatment, recovery and environmentally sound disposal of all waste otherwise than within our premises

## **12 RISK AND TITLE**

12.1 Risk in the Goods passes when they are delivered to you in accordance with clause 9.1.

12.2 In accordance with clause 12.1, you will insure the Goods against theft or any damage howsoever caused until their price has been paid in full.

12.3 For the purpose of section 13 of the Sale of Goods Act 1979 we will transfer only such title or rights in respect of the Goods as we have and if the Goods are purchased from a third party we will transfer only such title or rights as that party had and has transferred to us.

12.4 Notwithstanding clause 12.3, passing of title in the Goods will remain with us and will not pass to you until the amount due under the invoice for them or any other outstanding invoice from us to you (including interest and costs) has been paid in full to us (in cash or cleared funds).

12.5 We may maintain an action for the price of any Goods notwithstanding that title in them has not passed to you.

12.6 Until ownership of the Goods has passed to you, you must:

12.6.1 hold the Goods on a fiduciary basis as our bailee;

12.6.2 store the Goods (at no cost to us) separately from all other products belonging to you or any third party in such a way that they remain readily identifiable as our property;

12.6.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

12.6.4 maintain the Goods in satisfactory condition and keep them insured on our behalf for their full price against all risks to our reasonable satisfaction. On request you will produce the policy of insurance to us; and

12.6.5 hold the proceeds of the insurance referred to in clause 12.6.4 on trust for us and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

12.7 You may resell the Goods before ownership has passed to you solely on the following basis:

12.7.1 any sale will be effected in the ordinary course of your business at full market value; and

12.7.2 any such sale will be a sale of our property on your own behalf and you will deal as principal when making such a sale.

12.8 Your right to possession of the Goods will terminate immediately if:

12.8.1 you (being an individual) have a bankruptcy order made against you or make an arrangement or composition with your creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convene a meeting of creditors (whether formal or informal), or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver and/or manager, administrator or administrative receiver appointed of your undertaking or any part thereof, or a resolution is passed or a petition presented to any court for your winding up or for the granting of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency in any jurisdiction; or

12.8.2 you suffer or allow any execution, whether legal or equitable, to be levied on your property or obtained against you, or fail to observe/perform any of your obligations under the Contract or any other contract between us and you, or are unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or you cease to trade; or

12.8.3 you encumber or in any way charge any of the Goods; or

12.8.4 anything analogous to the foregoing occurs in any other jurisdiction; and

12.8.5 you breach the provisions of clause 19.1

12.9 If before title of the Goods passes to you, you becomes subject to any of the events listed in clause 12.8 then, without limiting any other right or remedy we may have: 11.9.1 your right to resell the Goods or use them in the ordinary course of your business ceases immediately; and 11.9.2 the Supplier may at any time: (a) require the Customer to deliver up all Products in its possession which 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 relevant Products are stored in order to recover them.

### **13 PERFORMANCE GOODS including TWR GOODS PERFORMANCE APPLICATIONS & MOTOR RACING**

13.1 Performance goods are supplied for specialist use and usually alter the vehicle from manufacturers' specification. They can be subject to extreme use when compared to the usual goods that we supply ("**Performance Goods**"). The life expectancy and durability of Performance Goods can differ greatly to standard goods depending on the item, application use and therefore you should note that a claim for failure or wear of the Performance Goods shall not be entertained by us. Any warranty claims sought in relation to Performance Goods shall be strictly subject to the manufacturers' warranty terms for such items if indeed there is any.. It is also important that you know if an item falls into the category of Performance goods, for example up rated exhausts/suspension/air filters/performance brake parts engine parts gearbox parts or any part for use on or in any modified car or racing car whether made by us or on our behalf or supplied to us for resale. We can deal in very rare scarce or otherwise unobtainable parts. Sometimes old and without history We make and manufacture often from original tooling many unique lines which may be manufactured to order or with changes to the original in both detail construction materials and method of construction. If you are unsure it is your responsibility to seek advice. Parts we have in stock are always available for the closest of examination including by agreement non destructive crack testing or engine shop examination.

13.2 No liability shall be accepted by us where you attempt to modify or install Performance Goods where it is known or ought reasonably to be known by you that the Performance Goods have been incorrectly supplied or otherwise not in accordance with your order. Further, due to the stress that is placed on connected parts to which the Performance Goods are supplied, we strongly recommend that specialist advice from experts is sought prior to purchase to ensure the Performance Goods are satisfactory for your vehicle. It is also recommended that you gain advice from a specialist to ensure the item purchased is suitable for your vehicle or planned use.

13.3 In the event that you purchase any Performance Goods, you must ensure that you are aware of the following:

13.3.1 Performance Goods and any modifications to your vehicle may render your motor vehicle insurance to be invalid, and may also invalidate any vehicle warranty cover you may have. We bear no responsibility on any failure by you to advise your insurers or warranty providers, or for the invalidity of such policies;

13.3.2 Some Performance Goods are designed solely for track and race use, and it is your responsibility to ensure any alterations made to your vehicle are compliant and in accordance with legal and regulatory requirements in the UK or the country in which you use such vehicle;

13.3.3 Performance Goods and any modifications to your vehicle may adjust the emission output of your vehicle, and it is your responsibility to ensure that any alterations made to your vehicle are compliant with the legal and regulatory requirements for emission in the UK or the country in which you use such vehicle; and

13.3.4 it is your responsibility to ensure that any Performance Goods applied to vehicles or any modified vehicles on public roads are legal, safe and compliant with UK regulatory requirements for use on public roads.

13.4 As Performance Goods are not standard equipment, parts fitted, electrical parts or parts supplied specifically for a performance or modified vehicle cannot be returned unless deemed as faulty under the manufacturers' warranty. Therefore, Performance Goods are exempt from the 'No Quibble' option as set out in clause 14.2.2 below; and shall only be subject to the warranty provisions as contained within clause 14.2.1 below.

## 14 WARRANTY

14.1 Subject to clause 13.1, each of the Goods are supplied with the benefit of a warranty if any given by the Goods' manufacturers (details of which will be provided to you with the Goods or otherwise on request ("**the Warranty**")) provided that you comply with the conditions set out in clause 14.2 as well as any provided with the Warranty ("**Warranty Conditions**").

14.2 If Goods become faulty during the period of the Warranty for reasons unconnected with your acts, omissions or misuse of the Goods, you can (subject to clause 14.6) opt to use one of the following two options:

14.2.1 notify us in writing and/or by completing a warranty claim (including a description of the fault) and return such Goods to us. Such Goods shall be returned to the manufacturer if applicable for review and testing. Based on the manufacturers' opinion and further subject to clause 14.5 and 14.6, we will repair, (or at our sole option) replace such Goods with the same or superior Goods, without charge or not provide any of the aforementioned. The manufacturer's opinion shall be final and binding and we shall have no further liability to you. If Goods become faulty after expiry of the Warranty, and you request that we replace or repair such Goods, then we shall charge our then standard list price for such repair or replacement; or refuse such a claim.

14.2.2 Certain Goods specifically race or performance parts have no warranty. Once examined and paid for and removed from our premises or dispatched they cannot be returned for a refund without our prior agreement and consent in writing. If the parts have been marked modified or fitted or had identification marks added or removed we will not entertain any liability whatsoever even if fitted by us on your instruction or in conjunction with services we may provide or engage others to provide for you on our behalf.

14.3 Your sole remedy in respect of a failure of the Goods to comply with the Warranty is as set out in the Warranty Conditions. If in doubt ask if the part(s) have a warranty and what the exclusions are..There may be no warranty.

14.4 We will be afforded reasonable opportunity and facilities to investigate any claims made under the Warranty and you will (if so requested in writing by us), promptly return any Goods (the subject of any claim) and any packing materials, securely packed with carriage paid, to us for examination.

14.5 We will have no liability with regard to any claim in respect of which you have not complied with the claims procedures in the Warranty Conditions.

14.6 The above warranty is given by us subject to us having no liability in respect of any defect arising from wear and tear, wilful damage, negligence, tampering of the Goods, incorrect fitting of the Goods by you and/or a third party, abnormal working conditions including motorsport, failure to follow our and/or the Goods' manufacturers' instructions (whether oral or in writing), misuse or alteration or repair of the Goods without our approval

## 15 REFUNDS POLICY

15.1 When you return Goods to us:

15.1.1 which are incorrectly supplied and/or are returned as new in their original packaging (and as per 15.1.2), such Goods shall be refunded, exchanged or replaced if they are returned within 30 days of the date of purchase of the Goods and proof of purchase (in the form of our invoice for the original supply of the Goods) is supplied; and

15.1.2 for any other reason, we will examine the returned Goods and will notify you in writing or via e-mail within a reasonable time of the refund (if any at all) to which you are entitled. We will usually process the refund due to you as soon as possible thereafter. For any entitlement of a refund to be due to you, the returned Goods must be in the same condition in which you received them with the original packaging and the product documentation.

The Goods must not have been used (such as any smell of without limitation fuel, toxins or rubber shall invalidate any refund due to you) and, where applicable, must not have been removed from the sealed clear packaging.

This includes electrical items, which are supplied in sealed clear packaging. Goods returned to us because they fail to comply with the Warranty shall be refunded in accordance with the provisions of the Warranty Conditions.

15.2 We shall have no liability for incorrect Goods purchased by you online for foreign registered cars. To minimise the purchase of any incorrect Goods we advise that Business Customers with foreign registered vehicles call us on 07949 944523 or send an email to either [sales@performanceoilsltd.co.uk](mailto:sales@performanceoilsltd.co.uk) or [don@twr-jaguar.co.uk](mailto:don@twr-jaguar.co.uk) or [donmariamiles@gmail.com](mailto:donmariamiles@gmail.com) and we will offer guidance to Business Customers and confirm that any Goods are correct suitable and or problems know or associated with the use of such parts prior to purchase.

15.3 "Special Order" means any Goods that are not held in stock by us (a non-stock item) and are therefore ordered and/or manufactured specifically as per your request. Payment in full is required for such Special Orders at the time the Special Order is placed with us unless special arrangements have been made with us in writing. Special Orders are non-refundable except at our sole discretion. We reserve the right to apply a restocking fee of 50% of the price of the Special Order, which shall be deducted from any refund due to you. We will often take such a 50% deposit prior to ordering or instructing a manufacturer. We may require full payment prior to manufacturer and offer no refund dependent upon the part. If in doubt ask.

15.4 We will normally refund any money received from you using the same method originally used by you to pay for your purchase

## **16 SERVICES**

16.1 We will perform the Services with reasonable care and skill.

16.2 If we fail to perform the Services in accordance with clause 16.1 or at all, then your sole remedy will be for the re-performance of those Services by us.

16.3 Any timescales given by us to you in respect of the performance of the Services are approximate only.

Please bear in mind that we may be relying on manufacturers whose lead in times can be very long and who may not meet their timescale to us. This is not our fault.

## **17 INSTALLATION**

17.1 If the Services include installation services we will provide detailed instructions to you about site preparation and other requirements required during the installation. What is required will be by agreement and confirmed in writing.

17.2 If you fail to fully comply with the requirements in clause 17.1, we reserve the right to charge you for any additional work required as a result or if we are unable to complete the installation.

## **18 SUPPORT AND MAINTENANCE**

18.1 The provisions of this clause 18 will only apply if the Services purchased by you include the provision of support and maintenance services.

18.2 We will provide you with such technical advice by telephone, e-mail, and web access during our normal business hours and outside by agreement in writing for the duration of the period for which you purchase such Services ("**Cover Period**") as is reasonably necessary to resolve your difficulties and queries in using such goods supplied to you and identified by us. The objective of this service is to provide an initial advice and guidance service. It is not a substitute for management consultancy, project management, implementation control, system consultancy, or product training and is available only to your competent trained employees.

18.3 You will:

18.3.1 provide us with such information, assistance and facilities as we may reasonably require to enable us to perform the Services set out in this clause 18; and

18.3.2 direct all enquiries for technical advice to us on a phone number and email address we will give to you..

18.4 The support and maintenance services do not apply:

18.4.1 to the extent that you failed to follow any instructions relating to the operation, use and maintenance of the Goods (and where you install the Goods, instructions as to installation of the Goods);

18.4.2 to the extent that the query arises from user incompetence, abuse, improper use or use in an environment or for a purpose for which the Goods were not designed or intended;

18.4.3 if you or other third party alters or repairs the Goods without our written consent; or 18.4.4 to the extent that the query is attributable to third party materials including any equipment to which the Goods are incorporated which is not provided by us.

18.5 You will pay any additional charge levied by us, at our then prevailing rates, for support and maintenance services provided at your request but which fall within the exclusions in clause 18.4.

18.6 The Services referred to in this clause will run for the Cover Period and will (unless terminated earlier in accordance with these terms) continue thereafter unless or until terminated by either party serving no less than 90 days' prior notice on the other, such notice to expire on the last day of the Cover Period or subsequent anniversary thereof. We reserve the right to vary the fee payable for such Services on or before each anniversary of commencement of the Cover Period.



## **19 LIMITATION OF LIABILITY**

19.1 Subject to the provisions of these terms, the following provisions set out the entire financial liability of us (including any liability for the acts or omissions of our directors, employees, agents and sub-contractors) to you in respect of:

19.1.1 any breach of these terms; and

19.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

19.2 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 (as amended)) are, to the fullest extent permitted by law, excluded from the Contract.

19.3 Nothing in these terms excludes or limits our liability:

19.3.1 for death or personal injury caused by our negligence;

19.3.2 under section 2(3) of the Consumer Protection Act 1987;

19.3.3 for fraud or for fraudulent misrepresentation; or

19.3.4 for any matter for which it would be illegal for us to exclude, or attempt to exclude, our liability.

19.4 Subject to clause 19.3, we will not be liable to you for:

19.4.1 any indirect or consequential, special or punitive loss, damage, costs or expenses;

19.4.2 loss of profit;

19.4.3 loss of business;

19.4.4 loss of income or revenue;

19.4.5 loss or corruption of or damage to data;

19.4.6 waste of management or office time; or

19.4.7 depletion of goodwill.

19.5 Subject to clause 19.3, our total liability to you under or connected with these terms will not exceed 100% (one hundred per cent) of the price payable for the Goods and/or Services for any one event or series of connected events.

## **20 TERMINATION AND SUSPENSION**

20.1 We may at our discretion suspend or terminate the supply of any Goods or Services if you fail to make any payment when and as due or otherwise defaults in any of your obligations under the Contract or any other agreement with us or if any of the events set out in clause 12.8 occur.

20.2 On the termination of the Contract for any reason:

20.2.1 we will not be obliged to supply any Goods and Services ordered by you unless already paid for; and

20.2.2 all payments payable to us under the Contract will become due immediately upon termination of this Contract despite any other provision.

20.3 The termination of this Contract will not affect the respective rights and liabilities of each of the parties thereto which accrued prior to such termination nor any provisions which either expressly or impliedly are to remain in operation after termination.

20.4 Orders accepted by us are cancellable only at our discretion and we may charge for all work carried out or expenses incurred in relation to the order before our acceptance of cancellation.

## **21 ANTI - BRIBERY**

21.1 You shall:

21.1.1 comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;

21.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

21.1.3 not induce or reward us or our directors, officers, representative, contractors or personnel to perform or improperly perform a function or activity in connection with this Contract;

21.1.4 not directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a function or activity in connection with this Contract, other

than where a bona fide promotions and/or incentive is run by us (see clause 6 for further details on such promotions and incentives);

21.1.5 if you are a business, organisation, partnership, limited liability partnership or a company, have and maintain in place throughout the Contract your own policies and procedures including but not limited to adequate procedures under the Bribery Act 2010 to ensure compliance with the same and to enforce where appropriate;

21.1.6 promptly report to us any request or demand for any undue financial or other advantage of any kind received by us or our directors, officers, representative, contractors or personnel or any undue financial or other advantage of any kind given by us in connection with the performance of this Contract.

21.2 Without prejudice to clause 20.1, we may terminate the supply of any Goods or Services to you forthwith if you breach any of the provisions of clause 21.1 above.

## **22 FORCE MAJEURE**

22.1 We will not be liable for any failure in the performance of any of our obligations under the Contract caused by factors outside our control.

## **23 LAW AND JURISDICTION**

23.1 This Contract will be governed by English law and you consent to the non-exclusive jurisdiction of the English courts in all matters regarding it.

## **24 NOTICES**

24.1 Any notice given under this Contract will be in writing and may be served personally, by registered or recorded delivery mail, by email (evidence confirming the same by post) or by any other means which any party specifies by notice to the other.

24.2 Each party's address for the service of notice will be:

24.2.1 Us - the address specified in clause 1.2 or such other address and facsimile number as we specify by notice to you; and

24.2.2 You – the address given to us at the time an order is placed with us.

24.3 A notice will be deemed to have been served: if it was served in person, at the time of service, if it was served by post, 48 hours after it was posted and if via email once it has been transmitted.

## **25 GENERAL**

25.1 Each of our rights or remedies under the Contract is without prejudice to any other right or remedy that we may have whether under the Contract or not.

25.2 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 will 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 will continue in full force and effect.

25.3 Failure or delay by us in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of our rights under the Contract.

25.4 Any waiver by us of any breach of, or any default under, any provision of the Contract by you will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

25.5 Neither of us intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.