

Terms and Conditions of Sale for the Supply of Goods and/or Services

1 INTERPRETATION

1.1 In these Conditions the following words shall have the following meanings:

Bradbury means Bradbury Group Limited, registered in England and Wales with company number 02752887, whose registered office address is Unit 8, Dunlop Way, Queensway Enterprise Estate, Scunthorpe, DN16 3RN, and/or its subsidiaries and/or associated companies;

Buyer means the person, firm or company who purchases the Goods and/or Services from Bradbury under the Contract;

Conditions means these Terms & Conditions of Sale for the Supply of Goods and/or Services, as amended from time to time subject to Condition 2.10;

Confidential Information has the meaning given in Condition 10.1;

Contract means any contract between the Parties for the sale of the Goods and/or for the supply of Services in accordance with, and subject to, these Conditions, the content of the Order, the Specification, and any special terms agreed in writing by an authorised representative of the Parties;

Delivery Location means the place where delivery of the Goods is to take place, as set out in the Order or such other location as the Parties may agree from time to time;

Force Majeure Event has the meaning given in Condition 13.2;

Goods means any goods or products agreed in the Contract to be supplied to the Buyer by Bradbury, including any part or parts of them;

Insolvency Event means when a Party:

- (i) being an individual or partnership: (a) 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 is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986; (b) makes or proposes to make an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors; (c) is, or proposes to become, the subject of a bankruptcy petition or order; (d) dies or, by reason of illness or incapacity, (whether mental or physical), is incapable of managing its own affairs, or becomes a patient under any mental health legislation; or
- (ii) being a corporate entity: (a) is, or the other Party reasonably considers it to be, unable to pay its debts when they fall due as defined in Section 123 of the Insolvency Act 1986; (b) makes, or proposes to make, any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; (c) has a petition filed, a notice given, a resolution passed, or an order made, for or in connection with the winding up of it; (d) has an application made to court, or an order made, for the appointment of an administrator, or a notice of intention to appoint an administrator given or an administrator is appointed over it; (e) has a floating charge holder over its assets who has become entitled to appoint or has appointed an administrative receiver; or (f) has a person become entitled to appoint a receiver over its assets or a receiver appointed over its assets; or
- (iii) suffers actions analogous to those described in (i) or (ii) above, in any jurisdiction outside England and Wales;

Order means the Buyer's order for the Goods and/or Services, as set out in the Buyer's purchase order form, or the Buyer's acceptance of Bradbury's quotation, as the case may be;

Party means either Bradbury or the Buyer (as appropriate), and Parties shall be construed accordingly;

Product Warranty has the meaning given in Condition 8.1;

Services means the Services to be provided by Bradbury under the Contract;

Specification means any specification for the Goods and/or Services, including any related plans and drawings, that is prepared by Bradbury and/or is otherwise accepted by Bradbury as forming part of the Contract;

Warranty Period means, the applicable warranty period(s) for the Goods, as generally offered by Bradbury and as confirmed in the quotation or the Order (and for the avoidance of doubt, any Warranty Period shall commence on the later of: (a) the delivery date, or (b) if applicable, the date on which installation of the Goods is completed by Bradbury).

Working Day means any day Monday to Friday (inclusive) on which Bradbury is ordinarily open for business, excluding any bank holidays and statutory holidays in England and Wales;

1.2 In these Conditions:

1.2.1 words expressed in the singular shall include the plural and vice versa, and words referring to a particular gender include every gender;

1.2.2 unless the context requires otherwise, references to including or includes shall be deemed to have the words "without limitation" inserted after them;

1.2.3 writing includes by fax and email, and written shall be construed accordingly; and

1.2.4 references to any statute or statutory provision shall include (i) any subordinate legislation made under it, (ii) any provision which it has modified or re-enacted (whether with or without modification), and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).

1.3 Any obligation in the Contract on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

1.4 Headings to Conditions, clauses, parts and sections are inserted for convenience only, and shall not affect the interpretation or construction of the Contract.

2 THE CONTRACT

2.1 Each Contract will be performed on a business to business basis, and the Goods and/or Services will be provided by Bradbury for business purposes only.

2.2 These Conditions shall apply to the Contract to the exclusion of any terms or conditions that the Buyer seeks to impose or incorporate whether contained, or referred to, in any purchase order, confirmation of order, specification, acceptance of a quotation or other document, or which may be implied by law, trade custom, practice or course of dealing. No terms or conditions endorsed on, delivered with, or contained in any purchase order, confirmation of order, acceptance of a quotation or specification or other document produced by the Buyer will form part of the Contract simply by reference to any such document in the Contract.

2.3 Unless Bradbury has expressly confirmed otherwise in writing, any quotation and/or specification that it may issue from time to time will be entirely non-binding, and will not constitute an offer for the supply of the Goods and/or Services.

2.4 The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order and any specification submitted by the Buyer are complete and accurate.

2.5 Before the Order is accepted in accordance with Condition 2.6, Bradbury may amend any specification submitted by the Buyer. For the avoidance of doubt, any amendment made to the specification by Bradbury in accordance with this Condition 2.5 shall not constitute an offer for the supply of the Goods and/or Services.

2.6 Subject to Condition 2.7, the Order will be deemed to be accepted when Bradbury issues a written acceptance of the Order, or commences the supply of the Goods and/or Services (whichever occurs first), at which point the Contract shall come into existence.

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- 2.7 Bradbury's acceptance of, and continued performance against, an Order is at all times conditional upon the Buyer providing the necessary information and assistance to enable Bradbury to proceed with the supply of the Goods and/or Services. Bradbury may suspend or cancel an Order, in whole or in part, at any time upon the Buyer failing to promptly provide such information and assistance following request from Bradbury.
- 2.8 All drawings, photographs, descriptive matter and illustrations, weights, dimensions, specifications, brochures, figures as to performance, catalogues, price lists, advertising matter and other publications issued by Bradbury are by way of identification only and produced for the sole purpose of giving an approximate idea of the goods and/or services described therein. Their use shall not in any circumstances render any sale a sale by description, nor form part of any Contract or constitute any representation, unless previously agreed in writing.
- 2.9 Bradbury may, acting reasonably in such regard, update and amend any Specification, including to the extent required to comply with any law, regulation, code of practice or any other obligation applying to the activities of Bradbury under the Contract.
- 2.10 No variation of these Conditions shall have effect unless agreed in writing by a director of Bradbury. Bradbury shall not be bound by, or liable for, any variation of any Contract which is not contained in a document duly signed on Bradbury's behalf.

3. CANCELLATIONS AND/OR AMENDMENTS

- 3.1 No cancellation or amendment of any Order by the Buyer shall be effective unless made in writing, and accepted in writing by Bradbury, who may, at its sole option, refuse to accept any cancellation or amendment.
- 3.2 Bradbury is not obliged to accept any cancellation or amendment of any Orders for Goods manufactured to special requirements, or for Goods otherwise not normally stocked by Bradbury, or if the manufacture or obtaining by Bradbury of such Goods is already in the process of being completed.

4. DELIVERY

- 4.1 Delivery of the Goods shall take place at the Delivery Location and will be completed upon the Goods' arrival at the Delivery Location. All costs of delivery at places other than Bradbury's premises shall be borne by the Buyer.
- 4.2 Any stated delivery times or dates are an estimate only and are not guaranteed. Time for delivery shall not be of the essence.
- 4.3 Delivery of the Goods may be by instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract, and any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.
- 4.4 In circumstances where any change to the Specification is required by the Buyer, and/or where the Buyer fails to provide any necessary information and assistance in accordance with Condition 2.7, the expected time for delivery may be extended by such period as Bradbury deems reasonably necessary (acting reasonably in such regard).
- 4.5 The Buyer must provide assistance for unloading the Goods at the Delivery Location at its own cost. Prior to the expected date of delivery the Buyer may consult with Bradbury to ascertain the most appropriate method for unloading the Goods. Notwithstanding the above, it remains the Buyer's responsibility to ensure suitable offloading and positioning equipment and labour are available to ensure that the Goods are unloaded in a safe and secure manner, (and, if appropriate, placed adjacent to the aperture to where the Services, if any, are to take place), and are then protected in such a way as to prevent any damage, including arising from site works or exposure to weather conditions. If Bradbury is performing Services, any damage found by Bradbury upon a pre-installation inspection will be chargeable and, if un-repairable on site, will also incur reasonable abortive, repair, re-attendance, and/or re-delivery charges (as applicable), payable by the Buyer following written agreement in the form of an Order in respect of such remedial work.
- 4.6 Where the Contract provides for delivery of the Goods to the Delivery Location, the total time allowed for unloading in accordance with Condition 4.5 is thirty (30) minutes (the **Demurrage**). If the actual time taken exceeds the Demurrage, the Buyer may be charged additional fees, at the rate of £50 per hour or part thereof, in accordance with prevailing RHA guidelines.
- 4.7 Any installation services provided by Bradbury on or after delivery of the Goods will be carried out on Working Days between the hours of 07:00 and 18:00 only. If the Buyer requires Bradbury to perform any Services outside of these hours, Bradbury will charge the Buyer an enhanced rate, as advised in writing prior to the performance of such Services.
- 4.8 If, for any reason, the Buyer fails to take delivery of the Goods when they are made ready by Bradbury, or if Bradbury is unable to deliver the Goods on the expected delivery date due to the Buyer failing to provide appropriate instructions, licences, authorisations or access, or otherwise due to site circumstances beyond Bradbury's control:
- 4.8.1 the Goods will be deemed to have been delivered of the expected delivery date;
- 4.8.2 all risk in the Goods will pass to the Buyer on the expected delivery date;
- 4.8.3 Bradbury may store the Goods at the Buyer's cost until the physical delivery of the Goods (including all storage, insurance and, if applicable, re-delivery costs, which may be invoiced on a weekly basis, and immediately payable upon receipt);
- and Bradbury shall not be obliged to complete re-delivery of the Goods in such event without written agreement in the form of an Order from the Buyer and, if necessary, until pre-payment in respect of the Order has been received by Bradbury in full cleared funds.
- 4.9 If, for any of the reasons set out in Conditions 4.4 or 4.8, the Buyer fails to take delivery of the Goods within ten (10) Working Days of Bradbury notifying them that the Goods are ready for delivery:
- 4.9.1 Bradbury may rescind or terminate the Contract and sell the Goods to a third party; and
- 4.9.2 the aborted Services, if any, will be chargeable to the Buyer at a rate of 75% of the installation quotation value.
- 4.10 Bradbury shall not be liable for any direct, indirect or consequential loss, including: (i) loss of profit; (ii) costs; (iii) damages; or (iv) charges or expenses; arising from any delay in delivery of the Goods and/or performance of the Services, howsoever caused, (even if caused by the Bradbury's negligence), nor shall any delay in delivery of the Goods and/or performance of the Services entitle the Buyer to terminate or rescind the Contract. If Bradbury fails to deliver any Goods pursuant to a Contract, its liability shall be limited to any direct costs and expenses incurred by the Buyer in obtaining replacement goods and/or services of similar description and quality in the cheapest market available (less the price of the Goods and/or Services (as applicable)), provided always that Bradbury shall not be liable for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, or for any of the reasons set out in Conditions 4.4 or 4.8.
- 4.11 Bradbury accepts no responsibility for any loss or damage to Goods while they are in transit unless they are carried by Bradbury's carrier and the Buyer notifies Bradbury in writing (otherwise than upon the carrier's documents) of any loss or damage in transit within two (2) Working Days of receipt of such Goods.
- 4.12 Customers collecting product directly from the factory are responsible for checking goods prior to loading onto their own transport and to ensure that the product is adequately protected. Bradbury logistics must be notified of any damage prior to loading.
- 4.13 Goods shall be deemed to have been accepted by the Buyer if notice of rejection is not received in writing within two (2) Working Days of delivery. Where Bradbury has provided an installation service, this Service is deemed to have been accepted by the Buyer upon the signature of the site job sheet within two (2) Working Days of completion of the Service. Upon such acceptance, the Goods and/or Services shall be deemed to comply with the terms of the Contract in all respects.

5. PRICE AND PAYMENT

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- 5.1 Unless otherwise agreed by Bradbury in writing, the price for the Goods and/or Services shall be the price set out in the quotation, which is valid for sixty (60) days from date of issue. Prices shown on quotations are, unless otherwise stated, exclusive of value added tax and any other applicable duties, levies and/or taxes, which the Buyer will pay in addition to the price when it pays for the Goods and/or Services in accordance with this Condition.
- 5.2 Unless otherwise agreed, any costs and charges of packaging, insurance and, if applicable, carriage of the Goods shall be charged in addition to the quoted prices.
- 5.3 Quotations which include a charge-out rate for the performance of the Services are subject to an allowance of one (1) hour for customer site/safety inductions (the **Induction Time**). Bradbury shall not charge the Buyer, and the Buyer shall not be liable to pay, any fees in connection with the Induction Time, save where the Induction Time exceeds one (1) hour, in which case the Buyer will be charged at the rate of £75 per man per hour, or part thereof, in respect of such additional time.
- 5.4 Quotations for Services which include installation of the Goods allow, where applicable, a bead of standard colour (white, black or clear) mastic/silicon sealant to be run around the edge of the frame. If alternative colour mastic and/or silicon sealant and/or trims and/or architraves are required, the Buyer must inform Bradbury within seven (7) Business Days of performance of the Services. Bradbury will advise the Buyer of any additional costs payable in such event.
- 5.5 If required by Bradbury, the Buyer shall pay a deposit. Any deposit payable shall be paid on acceptance of the Order, and payment of such in full and in cleared funds is a condition precedent to Bradbury being under any liability to supply the Goods and/or Services in accordance with the Contract. In all other cases, Bradbury may invoice for the Goods at any time on or after delivery (being the Goods' arrival at the Delivery Location).
- 5.6 If the Buyer's site is zero rated for VAT purposes in accordance with HMRC Regulations, it is the Buyer's responsibility to provide written confirmation on letter headed paper of such VAT rating along with any other evidence that Bradbury may require. Failure to provide sufficient evidence will result in a demand for payment of VAT on all invoices submitted by Bradbury as if the site is rated at the appropriate standard rate of VAT in force at that time.
- 5.7 Subject to Conditions 5.5 and 5.10, the due date for payment of Bradbury's invoices, in full and in cleared funds, shall be the end of the month following the date of the invoice (the **Payment Due Date**). Time for payment of invoices shall be of the essence.
- 5.8 If the Buyer fails to pay any sum due by the Payment Due Date it shall be liable to pay interest. Interest will accrue on any overdue amount on a daily basis at the annual rate of three per cent (3%) above the base rate for lending of Barclays Bank PLC, from the Payment Due Date until receipt by Bradbury of payment in full and cleared funds of the overdue amount, whether before or after any judgment. The Buyer shall also pay all costs and expenses (including legal expenses) incurred by Bradbury in collecting such sum. The Buyer shall pay the interest and all such costs and expenses together with the overdue amount.
- 5.9 In addition to its right to charge interest and associated costs and expenses on late payment as set out in Condition 5.8, where any sum owed by the Buyer is overdue, or where the Buyer exceeds its authorised credit limit, Bradbury shall be entitled, but not obliged, to do any or a combination of the following without prejudice to any other right or remedy:
- 5.9.1 suspend all or any part of the ongoing supply of the Goods and/or Services;
 - 5.9.2 cancel all or any part of any outstanding Contract; and/or
 - 5.9.3 exercise its rights to recover the Goods pursuant to Condition 6.9.
- 5.10 All payments payable to Bradbury under the Contract shall become due and payable immediately on its termination notwithstanding any other provision of the Contract or these Conditions.
- 5.11 If the Buyer fails to provide Bradbury within seven (7) Working Days of the Order being accepted, any items belonging to, or to be supplied by, the Buyer for adaption in, or for incorporation in, the Goods, together with sufficient drawings, specifications and information to enable Bradbury to start work within such time, Bradbury may in such event amend the prices quoted to reflect any increase of the Goods which arises from the delay in receipt of such items, drawings, specifications and information.
- 5.12 Bradbury may increase any agreed price to reflect: (a) any increase in the cost of the Goods and/or Services due to factors beyond Bradbury's reasonable control (including foreign exchange fluctuations, increases in taxes and duties, increases in labour, materials and component costs and other manufacturing costs); or (b) any additional costs incurred as a result of: any alterations by the Buyer in design, quantities and/or specifications; and/or any suspension of work arising from instructions or lack of instructions from the Buyer; and/or (without prejudice to Bradbury's rights under Condition 5.13) any item supplied by the Buyer proving unsuitable for, or having to be altered prior to, such incorporation; and/or Bradbury not obtaining access to the Buyer's premises as and when necessary to provide the Goods and/or Services.
- 5.13 Bradbury may make any alteration it thinks reasonably necessary to any item supplied by the Buyer for incorporation into Goods, and charge the cost of so doing to the Buyer.
- 5.14 Bradbury may, without limiting any other rights or remedies it may have, set off any amounts owed to it by the Buyer against any amounts payable by it to Buyer.
- 6. RISK AND TITLE**
- 6.1 The Goods are at the risk of the Buyer from delivery.
- 6.2 Notwithstanding the earlier passing of risk, ownership in the Goods shall remain with Bradbury and shall not pass to the Buyer until: (a) the amount due under the invoice for the Goods and/or Services has been paid in full and in cleared funds; and (b) all other sums which are, or which become, due to Bradbury from the Buyer have been paid in full and in cleared funds.
- 6.3 Until ownership of the Goods passes to the Buyer, the Buyer must:
- 6.3.1 hold the Goods on a fiduciary basis as bailee and trustee for Bradbury;
 - 6.3.2 store the Goods, at no cost to Bradbury, so that they can at all times be readily identified as Bradbury's property;
 - 6.3.3 not destroy, remove, deface or obscure any identifying mark or packaging on or related to the Goods;
 - 6.3.4 maintain the Goods in satisfactory condition and keep them insured on Bradbury's behalf for their full price against all risks, to the reasonable satisfaction of Bradbury; and
 - 6.3.5 hold the proceeds of the insurance referred to in Condition 6.3.4 on trust for Bradbury and not mix them with any other money nor pay the proceeds into an overdrawn bank account.
- 6.4 Bradbury shall be entitled to recover payment for the price of Goods notwithstanding that ownership of any of the Goods has not passed from Bradbury.
- 6.5 Bradbury shall be entitled at any time before title in the Goods passes to the Buyer:
- 6.5.1 to repossess the Goods and dismantle any items containing the Goods (without being liable for any damage caused by so doing), and to use or sell all or any such Goods and so terminate (without liability to the Buyer) the Buyer's right to use, sell or otherwise deal in them; and
 - 6.5.2 to enter any premises of the Buyer for the purpose of recovering Goods pursuant to Condition 6.5.1, or for determining what, if any, Goods are held by the Buyer, or for the purpose of inspecting the same.
- 6.6 The Buyer may resell the Goods before ownership passes to it solely on the following conditions:

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- 6.6.1 any sale must be effected in the ordinary course of the Buyer's business, at full market value, and the Buyer shall hold such part of the proceeds of sale as represents the amount owed by the Buyer to Bradbury on behalf of Bradbury, and the Buyer must account to Bradbury accordingly;
- 6.6.2 any such sale shall be a sale of Bradbury's property on the Buyer's own behalf, and the Buyer shall deal as principal when making such a sale; and provided that such right of resale may be revoked at any time in writing by Bradbury at its sole option, and shall automatically be revoked (without notice) upon the Buyer being subject to an Insolvency Event.
- 6.7 If the Buyer has not received payment for a sale under Condition 6.6 it shall, upon written request, assign to Bradbury all of its rights against its customer in respect of that sale.
- 6.8 The Buyer's right to possession of the Goods shall terminate immediately, and without notice, if:
- 6.8.1 it suffers an Insolvency Event;
- 6.8.2 it encumbers or in any way charges any of the Goods, or it suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it;
- 6.8.3 it fails to observe/perform any of his/its obligations under the Contract, or any other contract between the Parties; or
- 6.8.4 it ceases to trade; or
- 6.9 The Buyer grants Bradbury, its agents, subcontractors and employees, an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect or, where the Buyer's right to possession has terminated, to recover the Goods.
- 6.10 If Bradbury exercises its right to recover possession of the Goods, or any of them, the risk in such Goods shall revert to Bradbury on possession being taken by Bradbury, its agents, subcontractors or employees, and Bradbury shall have the full and unencumbered right to dispose of the Goods, free of any rights whatsoever on the part of the Buyer to the Goods or the proceeds of sale thereof.
- 6.11 On termination of the Contract, howsoever caused, Bradbury's (but not the Buyer's) rights contained in this Condition 6 shall remain in effect.
- 7 BUYER OBLIGATIONS**
- 7.1 The Buyer shall:
- 7.1.1 co-operate with all the reasonable instructions of Bradbury in its performance of the Contract, and provide any such information and assistance as Bradbury may reasonably require;
- 7.1.2 provide adequate and appropriate access to facilitate the delivery of the Goods at the Delivery Location;
- 7.1.3 be responsible for ensuring that any land and buildings on or in which Bradbury is to perform the Services are safe and suitable for Bradbury to perform such Services, including where the Goods supplied are LPS1175 security products, the structural openings and/or supporting structure and/or installation must be appropriate and comply with the relevant security accreditation;
- 7.1.4 provide Bradbury, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Buyer's premises, office accommodation, data and other facilities as is reasonably required by Bradbury in its performance of the Contract;
- 7.1.5 inform Bradbury of all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises;
- 7.1.6 ensure that the use of the Goods and/or performance of the Services comply with all health and safety rules and regulations and all applicable building regulations;
- 7.1.7 be responsible, at its own cost, for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials (including asbestos) from the premises in accordance with all applicable laws before Bradbury performs the Services at those premises, and for informing the Bradbury of all of the Buyer's obligations and actions under this Condition;
- 7.1.8 be responsible for ensuring that there is suitable mains power (110v or 240v) available and within 25 metres of the installation area;
- 7.1.9 be responsible for any electrical works (if required), including any door entry system; and
- 7.1.10 be responsible for ensuring that there is suitable on-site parking and/or secure off-site loading/storage facilities for tools and equipment.
- 7.2 The Buyer shall ensure that: (a) its premises (land and buildings); (b) the contents thereon, including unfixed materials; (c) any persons thereon; and (d), any equipment belonging to Bradbury located thereon (including all tools, systems or facilities provided by Bradbury or its subcontractors and used in the supply of the Services, and which are not the subject of a separate agreement between the Parties under which title in such tools, systems or facilities passes to the Buyer); are at all times adequately insured against damage by fire, lightning, explosion, storm, tempest, flood, bursting or overflowing of water tanks, apparatus or pipes, earthquake, aircraft, collision, riot and civil commotion. The Buyer shall upon request provide such evidence of such cover as Bradbury may reasonably require.
- 7.3 The Buyer warrants that it shall only use the Goods for lawful purposes.
- 7.4 The Buyer should not modify the Goods without the prior written consent from Bradbury. Any modification of the Goods may invalidate the Goods' certification. If the Buyer installs the Goods it shall ensure that installation is carried out in line with Bradbury's fitting instructions. Failure to follow such instructions may render the Goods' certification, security ratings and/or accreditation invalid.
- 7.5 The Buyer shall indemnify, keep indemnified and hold harmless Bradbury against all and any actions, claims, demands, costs and expenses (including legal expenses and disbursements) incurred by or made against Bradbury in respect of any loss or damage or personal injury (including death) which arises out of or in connection with the Buyer's failure to comply with Conditions 7.1.6, 7.3 and 7.4.
- 7.6 If Bradbury's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Buyer, its agents, subcontractors, consultants or employees, Bradbury shall not be liable for any costs, charges or losses sustained or incurred by the Buyer arising directly or indirectly from such prevention or delay.
- 7.7 The Buyer shall not, without the prior written consent from Bradbury, at any time from the date of the Contract to the expiry of six (6) months after termination of the Contract, solicit or entice away from Bradbury or employ (or attempt to employ) any person who is, or has been, engaged as an employee, consultant or subcontractor of Bradbury in the provision of the Services. Notwithstanding the foregoing, the Buyer shall not be restricted from carrying out any general solicitation for employees or public advertising of employment opportunities (including through the use of employment agencies) not specifically directed at employees of Bradbury, and furthermore the Buyer shall not be restricted in hiring any such person who responds to any such general solicitation or public advertising on his or her own initiative and without solicitation of Bradbury in violation of the foregoing restriction.
- 7.8 If the Buyer suspends, cancels or reduces the supply of the Goods and/or Services ordered, the Buyer shall, without prejudice and in addition to any other remedy of Bradbury, indemnify, keep indemnified and hold harmless Bradbury against all liabilities, costs, damages, expenses, and losses including any direct, indirect or consequential losses, loss of profit and all interest, penalties and other reasonable costs and expenses suffered or incurred by Bradbury arising from such suspension, cancellation or reduction.
- 7.9 For the avoidance of doubt, where the Buyer fails to comply with its obligations under this Condition 7, Bradbury shall be entitled to delay the delivery of the Goods and/or Services, without liability and without prejudice to its other rights and remedies hereunder, until the Buyer so complies.
- 8. QUALITY**
- 8.1 Subject to the remaining provisions of this Condition 8, Bradbury warrants that the Goods it manufactures shall, during the relevant Warranty Period:
- 8.1.1 conform in all material respects with the Specification (if applicable);
- 8.1.2 be free from material defects in design, material and workmanship;
- 8.1.3 be of satisfactory quality within the meaning of the Sales of Goods Act 1979;
- 8.1.4 be reasonably fit for purpose; and

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- 8.1.5 be reasonably fit for any particular purpose for which the Goods are being bought, provided that the Buyer has made known that purpose in writing, and Bradbury has confirmed in that purpose writing, and this it is reasonable for the Buyer to rely on the skill and judgement of Bradbury in such regard.
- (the Product Warranty)**
- 8.2 Subject to Condition 8.4, if:
- 8.2.1 the Buyer gives written notice of a non-conformance with the Product Warranty to Bradbury within two (2) Working Days of the time when the Buyer discovers, or reasonably ought to have discovered, that some or all of the Goods do not conform to the Product Warranty, quoting the serial number of the Goods, (if any), and the date of purchase; and
- 8.2.2 Bradbury is given a reasonable opportunity to examine such Goods and agrees that they do not conform with the Product Warranty (and in the absence of manifest error, Bradbury's decision as to conformity or otherwise with the Product Warranty shall be final and binding); and
- 8.2.3 the Buyer, if asked to do so by Bradbury, returns such Goods to Bradbury;
- then Bradbury will repair or, at its option, replace the defective Goods or the defective part of the Goods and/or Services free of charge, provided that the Buyer adequately packs and returns the Goods (the cost of carriage shall be at Bradbury's expense) to the designated point of return stated by Bradbury, to arrive within seven (7) Working Days of the Buyer giving notice to Bradbury of such defect in accordance with Condition 8.2.1. Where it would not be practical for the Buyer to return the Goods to Bradbury, Bradbury will arrange to visit the premises of the Buyer. Except as provided in this Condition 8.2, Bradbury shall have no liability in respect of the Goods and/or Services' failure to conform with the Product Warranty
- 8.3 If, on Bradbury's receipt and/or examination of the Goods, Bradbury determines that the Goods do conform with the Product Warranty, the Buyer may be charged for: the cost of returning the Goods to Bradbury; the cost of any replacement Goods sent to the Buyer; any costs for the examination of the Goods by Bradbury; and any reasonable costs of travel and incidental expenses incurred by Bradbury in relation to the relevant Goods and/or Services; an invoice for which will be payable immediately upon receipt.
- 8.4 Bradbury shall not be liable for a breach of the Product warranty if:
- 8.4.1 the defect in the Goods and/or Services arises from any drawing, design or specification supplied by the Buyer; or
- 8.4.2 the Buyer makes any further use of such Goods after giving such notice in accordance with Condition 8.2.1; or
- 8.4.3 the defect arises because the Buyer failed to follow Bradbury's oral or written instructions as to the storage, installation or commissioning, use or maintenance of the Goods or, in the absence of such instructions, good trade practice regarding the same; or
- 8.4.4 the Buyer misuses, alters or repairs the Goods without Bradbury's written consent; or
- 8.4.5 the defect in the Goods and/or Services Goods arises from fair wear and tear, wilful damage, negligence or abnormal use, storage or working conditions (for the avoidance of doubt, this includes highly saline and corrosive environments), and/or beyond the Goods' capacity as rated and recommended by Bradbury; or
- 8.4.6 the defect has been caused or contributed to by reason of the faulty installation of the Goods by any person other than a person duly authorised by Bradbury; or
- 8.4.7 the Goods differ from their description or any specification as a result of changes made to ensure that they comply with applicable statutory or regulatory requirements; or
- 8.4.8 the total price for the Goods and/or Services has not been paid by the Payment Due Date.
- 8.5 Where Bradbury is not the manufacturer of the Goods, Bradbury shall use reasonable endeavours to transfer to the Buyer the benefit of any warranty or guarantee given to Bradbury by the manufacturer of the Goods.
- 8.6 Where Bradbury provides Services it will use reasonable endeavours not to damage any surrounding brickwork, plaster or paintwork. However, in some instances, especially where removal of existing doors and/or security equipment is involved, this may be unavoidable. Any rectification work necessary in respect of brickwork, render, redecoration, plastering or painting does not fall within the Services, and Bradbury shall have no liability in respect of the same.
- 8.7 Where Bradbury provides Services it will use reasonable endeavours to overcome r site problems and issues at the Buyer's premises wherever possible. However, where extra material/labour costs are likely to be incurred as a result of such problems and/or issues, no rectification work will commence without written agreement in the form of an Order from an authorised representative of the Buyer.
- 8.8 If Goods are manufactured and/or Services are performed in accordance with any specification, drawings, dimensions, design or other requirements supplied by the Buyer (together, the Buyer's Requirements) then:
- 8.8.1 the Buyer shall indemnify, keep indemnified and hold Bradbury harmless against all claims, losses (direct, indirect or consequential), liabilities, proceedings, damages and reasonable and documented costs and expenses (including legal and other professional fees and expenses) awarded against, or incurred by or paid by Bradbury arising out of any alleged or actual infringement of any third party's intellectual property rights (including any patent rights, registered design rights, copyright or other similar or equivalent rights whether registered or not and including all applications (or rights to apply) for such rights which subsist or will subsist in any part of the world) arising out of the manufacture of the Goods in accordance with the Buyer's Requirements;
- 8.8.2 Bradbury's interest is confined to supply/performance in accordance with the Buyer's Requirements. Under no circumstances shall Bradbury be liable or responsible for any additional and/or remedial work or loss or damage, caused directly or indirectly by complying with the Buyer's Requirements; and
- 8.8.3 Bradbury shall manufacture the Goods where possible as certified products however, where this is not possible, the Goods will be sold as 'out of certified scope'.
- 9 LIMITATION OF LIABILITY**
- 9.1 Save as provided by section 12 of the Sale of Goods Act 1979, and in these Conditions, all warranties, conditions and other terms implied by statute or common law or through trade custom or course of dealing are, to the fullest extent permitted by law excluded from the Contract, provided that nothing in these Conditions excludes or limits the liability of either Party for:
- 9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 9.1.2 fraud or fraudulent misrepresentation; or
- 9.1.3 any other liability that cannot be excluded or otherwise limited by law.
- 9.2 Subject to Condition 9.1, Bradbury's total liability to the Buyer in respect of all 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 price paid by the Buyer under the Contract (including all legal and other professional fees, costs and expenses reasonably and properly incurred by the Buyer in establishing and presenting any claim against Bradbury).
- 9.3 Subject to Condition 9.1, Bradbury shall not, under any circumstances, be liable in contract, tort, (including negligence), or in breach of statutory duty, or otherwise (howsoever caused) for any claim, damage, loss, liability, expense or cost in respect of:
- 9.3.1 loss of profit or loss of revenues;
- 9.3.2 loss of use;
- 9.3.3 loss of anticipated contracts and/or savings;
- 9.3.4 depletion of goodwill or similar losses;
- 9.3.5 loss of opportunity;

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- 9.3.6 loss of anticipated savings (whether incurred directly or indirectly);
- 9.3.7 loss of business and/or business interruption; or
- 9.3.8 any indirect, consequential or special loss or damage, regardless of whether or not Bradbury has been advised of the likelihood of such loss, and the Parties intend that each type of loss under this Condition shall be severable in accordance with Condition 14.7.

- 9.4 Where Bradbury supplies the Goods to the Buyer for incorporation with, or use ancillary to, any composite or other products to be produced, manufactured, processed or supplied by the Buyer, or any third party, then the Buyer shall indemnify, keep indemnified and hold Bradbury harmless against all and any actions, claims, demands, costs and expenses (including legal expenses and disbursements) incurred by or made against Bradbury relating to the composite or other products in circumstances in which the Goods are either:
 - 9.4.1 not the defective part of the composite or other product; or
 - 9.4.2 only rendered the defective part, or became a defective product, by reason of acts or omissions of the Buyer or any third party (including the supply of defective free issue materials); or
 - 9.4.3 only rendered the defective part, or became a defective product, by reason of instructions or warnings given by the Buyer or other supplier of the composite or other products.

10 CONFIDENTIALITY

- 10.1 The Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and which have been disclosed to the Buyer by Bradbury, its employees, agents, consultants or subcontractors, and any other confidential information concerning Bradbury's business or its products which the Buyer may otherwise obtain (Confidential Information).
- 10.2 The Buyer shall not use any Confidential Information for any purpose other than to perform its obligations under the Contract, and shall ensure that its employees, officers, representatives, advisers or agents to whom it discloses Confidential Information comply with this Condition 10.

11 TERMINATION

- 11.1 Bradbury may, without prejudice to its other rights and remedies, terminate any Contract immediately on written notice if:
 - 11.1.1 the Buyer fails to observe or perform any of its obligations under the Contract (including late or non-payment by the Buyer of any monies due to Bradbury under the Contract or any other contract between the Parties); or
 - 11.1.2 the Buyer suffers an Insolvency Event or Bradbury otherwise, acting reasonably, has serious doubts as to the Buyer's solvency; or
 - 11.1.3 any distress is levied against the Buyer or its property by any third party; or
 - 11.1.4 the Buyer ceases, or threatens to cease, to carry on all or a substantial part of its business; or
 - 11.1.5 there is late or non-payment by the Buyer of any monies due to Bradbury under the Contract or any other contract between the Parties.
- 11.2 Termination of the Contract, however arising, shall not affect any of the Parties' rights, remedies, obligations and liabilities that have accrued as at termination.

12 NOTICES

- 12.1 Any notice or other communication to be given under the Contract must be in writing and may be delivered personally, or be sent by first-class pre-paid post, recorded delivery, by fax, by commercial courier or by email to the Party to be served at the address for such Party as set out in the Contract, or as otherwise specified by the relevant Party by notice to the other Party. Any notice or other communication shall be deemed to have been duly received:
 - 12.1.1 if delivered personally, when left at the address for such Party as specified in the Contract; or
 - 12.1.2 if sent by first-class pre-paid post or recorded delivery, forty-eight (48) hours after posting; or
 - 12.1.3 if sent by fax, at the time of transmission; or
 - 12.1.4 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
 - 12.1.5 if sent by email, the time the email is received into the mailbox of the recipient.

13 FORCE MAJEURE

- 13.1 Bradbury shall not be liable to the Buyer in any manner, nor deemed to be in breach of the Contract, for any failure to perform, or any delay in performing, any of its obligations under any Contract to the extent that such failure or delay is due to a Force Majeure Event.
- 13.2 For these purposes, a Force Majeure Event means any event beyond the reasonable control of Bradbury which by its nature could not have been foreseen or, if it could have been foreseen, was unavoidable, including acts of God, governmental actions, war or national emergency, acts of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fires, explosions, collapse of building structures, floods, storms, earthquakes, epidemics or similar events, natural disasters or extreme adverse weather conditions, nuclear, chemical or biological contamination, lock-outs, strikes or other labour disputes (whether or not relating to Bradbury's workforce), failure of a utility service or transport network, or restraints or delays affecting carriers or inability or delay in obtaining supplies or adequate or suitable materials, default of suppliers or subcontractors, or other similar event.

14 GENERAL

- 14.1 The Buyer shall not assign, sub-contract or otherwise dispose of the Contract, or any part of it, without Bradbury's prior written consent.
- 14.2 An entity which is not a Party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract, and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall be expressly excluded from the Contract.
- 14.3 The Parties agree to comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption, including the Bribery Act 2010.
- 14.4 The Contract, incorporating the Conditions, constitutes the entire agreement between the Parties in respect of the supply of Goods and/or Services and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to the subject matter.
- 14.5 The Buyer expressly acknowledges and agrees that it has not relied on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Contract or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract. 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 the Contract, and agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- 14.6 Each right or remedy of Bradbury under the Contract is without prejudice to any other right or remedy of Bradbury whether under the Contract or not.
- 14.7 If any provision of the Contract is held invalid, illegal or unenforceable by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.
- 14.8 If a dispute or difference arises under the Contract, either Party may at any time refer such dispute or difference to adjudication.
- 14.9 Failure or delay by Bradbury in enforcing or partially enforcing any of its rights or remedies under the Contract will not be construed as a waiver of any of its rights under the Contract and shall not prevent Bradbury from later reasserting such rights or remedies.
- 14.10 Nothing in the Contract is intended to, or shall operate to, create a partnership or corporate relationship between the Parties, or to authorise either Party to act as the agent of the other, and neither Party shall have the authority to act in the name of or otherwise to bind the other in any way.
- 14.11 The Contract shall be governed by and construed in accordance with English law and the Parties submit to the exclusive jurisdiction of the English courts.