

## CONDITIONS OF SUPPLY

### 1. DEFINITIONS AND INTERPRETATION:

1.1 The following terms as used herein shall have the meaning as stated:

"**Company**" means Zygology Limited;

"**Conditions**" means these Conditions of Supply;

"**Confidential Information**" means any information disclosed by one (the disclosing party) to another (the receiving party) if the disclosing party has notified the receiving party that the information is confidential or the information could reasonably be supposed to be confidential;

"**Contract**" means any contract between the Company and the Customer for the supply of Goods, incorporating these Conditions;

"**Customer**" means any person, firm, company or other organisation who is the addressee of the Company's quotation or acceptance of order issued by the Company and shall include any successor-in-title of the Customer and any company or entity arising (wholly or partly) by way of any merger, amalgamation, reorganisation or acquisition of the Customer;

"**Delivery Point**" means the place where delivery of the Goods is to take place under clause 5;

"**Goods**" means any goods or materials agreed in the Contract to be supplied by the Company to the Customer (including any part or parts of them);

"**Incoterms 2010**" means the most recent version of the set of rules published by the International Chamber of Commerce which defines the responsibilities of sellers and buyers for the delivery of goods under sales contracts for international trade;

"**Input Material**" means any documents, plans, drawings, designs or other materials, and any instructions, specification, data or other information provided by the Customer to the Company relating to the Goods;

"**Intellectual Property Rights**" means any design rights, utility models, patents, inventions, logos, business names, trademarks, domain names, copyright, moral rights, rights in databases, source codes, reports, drawings, specifications, know how, trade secrets, rights in software, rights in the nature of unfair competition and the right to sue for passing off and any other equivalent or similar rights to any of the foregoing in any jurisdiction, whether registered or unregistered;

"**Output Material**" means any documents, plans, drawings, designs or other materials, and any data or other information provided by the Company to the Customer relating to the Goods.

1.2 A reference to a clause is to a clause of these Conditions.

1.3 Clause headings shall not affect the interpretation of these Conditions.

1.4 Any reference to "**parties**" means the parties to the Contract and "**party**" shall be construed accordingly.

1.5 Words in the singular include the plural and in the plural include the singular.

1.6 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.7 **Other than in relation to Goods sold through the Company's website in accordance with clause 14, these Conditions shall apply only to Customers who are business customers and not consumers. A Customer is a business customer if the Customer purchases Goods from the Company for the purposes of the Customer's business, trade or profession, rather than for private use. All other Customers are consumers.**

### 2. APPLICATION OF CONDITIONS AND DESCRIPTION OF GOODS:

2.1 All quotations are made and all orders are accepted by the Company subject only to these Conditions of Supply, which shall prevail to the exclusion of any

other terms including any conditions, warranties or representations written or oral, express or implied, even if contained in any of the Customer's documents which purport to provide that the Customer's own terms shall prevail. Any representations or recommendations about any Goods shall have no effect unless expressly agreed in writing and signed by an authorised signatory of the Company.

2.2 Any quotation is given on the basis that no Contract shall come into existence until the Company accepts the Customer's order in accordance with the provisions of clause 2.3. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

2.3 The placing of an order following any quotation or other indication of price and delivery shall not be binding on the Company unless and until accepted by the Company in writing.

2.4 The Customer shall ensure that the terms of its order and any Input Material are complete and accurate.

2.5 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

2.6 No order of the Customer may be cancelled by the Customer, except with the Company's express agreement and on such terms as the Company may require.

2.7 No order of the Customer may be varied, altered or deferred by the Customer, except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of such variation, alteration or deferment and subject to any reasonable adjustment to the Contract price which may be requested by the Company.

2.8 The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgement of order.

2.9 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's website, catalogues or brochures or otherwise issued by the Company are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

2.10 The specification for the Goods shall be based upon standard contract specification, unless varied expressly in the Customer's order and accepted by the Company.

2.11 Subject to the provisions of clause 9.1 (b), the Customer shall be solely responsible for ensuring the suitability of any Goods for any specific purpose or application and for ensuring the compatibility with and the inter-operability of any Goods with any other goods.

2.12 The Company reserves the right without prior approval from or notice to the Customer to make any changes in the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements or which, in the reasonable opinion of the Company, do not materially affect the specification of the Goods.

2.13 The Company has no obligation to accept any variation to the Contract requested by the Customer, whether by addition, substitution or omission (or, without limitation, to the Goods to be supplied under the Contract) and no such request shall be deemed to be accepted in the absence of the Company's written agreement to the variation.

- 2.14 **Any Customer wishing to purchase Goods through the Company's website is hereby referred to clause 14 of these Conditions.**
- 3. OBLIGATIONS OF THE CUSTOMER:**
- 3.1 The Customer shall provide the Company with all information, co-operation and support that may be required to enable the Company to carry out its obligations to the Customer.
- 3.2 If any Goods are to be manufactured, ordered, designed, built, configured, altered, adapted, or subjected to any process by or on behalf of the Company for the Customer, in each case in accordance with any Input Material submitted by the Customer, the Customer shall hold the Company harmless and shall fully indemnify the Company against any and all loss, damage, costs and expenses awarded against or incurred by the Company in connection with, or paid or agreed to be paid by, the Company in settlement of any claim:
- (a) for infringement of any Intellectual Property Rights of any other person resulting from the Company's use of any Input Material so submitted;
  - (b) that any Input Material so submitted contravenes any applicable safety or other statutory or regulatory requirement; and
  - (c) that any Goods supplied in accordance with any Input Material so submitted are defective, insofar as the defect or alleged defect in the Goods is attributable to the design of the Goods.
- 4. PRICE:**
- 4.1 Prices for the Goods, howsoever given, are subject to change. The effective price for the Goods shall be the price confirmed by the Company in its written notification of acceptance of the Customer's order pursuant to clause 2.3, which shall be subject to any minimum order charge applied by the Company.
- 4.2 The Company reserves the right, by giving notice to the Customer at any time before delivery of the Goods, to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, any increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate, accurate or complete information or instructions.
- 4.3 Unless otherwise stated, the price for the Goods will be exclusive of Value Added Tax which will be charged at the rate which is applicable at the date of dispatch of the Goods.
- 4.4 Unless otherwise agreed in writing between the Customer and the Company, all prices for the supply of Goods are given by the Company on an ex works basis and the Customer shall be liable to pay the Company's charges for transport, packaging and insurance. The Company reserves the right to make an additional charge for any special carriage requirements requested by the Customer.
- 4.5 Any waiver or reduction of any price will only be applicable if agreed by the Company in writing.
- 5. DELIVERY AND RETURNS:**
- 5.1 Whilst the Company will reasonably endeavour to deliver the Goods in accordance with the Customer's requirements, the Company will not be liable for any consequences of any delay in the delivery of the Goods, howsoever caused.
- 5.2 Unless otherwise agreed in writing by the Company, the delivery of the Goods shall take place at the Customer's place of business. The Goods will be delivered to the Delivery Point, which shall be a ground floor entrance location.
- 5.3 If so stipulated in the Company's written acknowledgement of order, the Customer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for unloading and loading the Goods.
- 5.4 If delivery involves difficult access to or at the Delivery Point and/or the Delivery Point is located at a substantial distance from any feasible vehicular access point, the Company reserves the right to levy an extra delivery charge.
- 5.5 If the Company delivers to the Customer a quantity of Goods of up to 10% more or less than the quantity accepted by the Company, the Customer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.
- 5.6 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 5.7 Each instalment shall be a separate contract.
- 5.8 No cancellation or termination of any one contract relating to an instalment shall entitle the Customer to repudiate or cancel any other contract or instalment.
- 5.9 If for any reason the Customer fails to accept delivery of any of the Goods, or the Company is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations, the Company will charge the Customer an abortive delivery charge and:
- (a) risk in the Goods shall pass to the Customer (including for loss or damage caused by the Company's negligence);
  - (b) the Goods shall be deemed to have been delivered; and
  - (c) the Company may store the Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance); or
  - (d) sell the Goods at the best price readily obtainable and (after deducting any reasonable costs and expenses in connection with the storage and expedited sale of the Goods), charge the Customer for any shortfall below the price for the Goods.
- 5.10 Goods returned to the Company shall be deemed to be at the risk of the Customer until the Company has accepted the return of the Goods in writing. No credit will be given unless the Customer states the reason for the return of the Goods and that reason has been accepted in writing by the Company. If credit is agreed pursuant to this clause 5.9, a charge will be levied to cover inspection, handling, restocking and administration.
- 6. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY RIGHTS:**
- 6.1 The Customer and the Company agree that in the course of the Company supplying Goods to the Customer, the parties may disclose to each other certain Confidential Information. The Customer and the Company agree that neither party will use the Confidential Information for any purpose other than to discharge the parties' respective obligations under the Contract. The parties also agree that each party will maintain the Confidential Information's confidentiality and not disseminate it to any third party without the disclosing party's prior written consent, save that this obligation shall not apply to any Confidential Information that either party has a duty (whether legal or otherwise) to communicate or that is in the public domain or is already in the receiving party's possession through no fault of the receiving party.
- 6.2 The Customer acknowledges the Company's ownership of any Intellectual Property Rights in any Output Material and in any Goods supplied to the Customer pursuant to the Contract and agrees not to contest the Company's ownership or use of any such

Intellectual Property Rights. Without limitation, the Customer shall not acquire any such Intellectual Property Rights or any licence or grant of rights therein, nor shall the Customer register or attempt or permit to be registered, any such Intellectual Property Rights or any licence or grant of rights therein. The Customer further acknowledges that, without limitation, any and all Intellectual Property Rights developed by the Company in supplying any Goods shall become vested and shall vest in the Company absolutely and shall also be subject to the other provisions of this clause 6.2.

**7. PAYMENT:**

7.1 Subject only to any special terms agreed in writing between the Company and the Customer, the Company shall be entitled to invoice the Customer for the price of the Goods on or at any time after acceptance of the Customer's order.

7.2 Subject to clause 7.1 and provided that the Customer has produced references which in the Company's opinion are satisfactory, payment of all invoices shall be made in full by the end of the month following the month of invoice. In all other case payments shall be made in advance upon submission by the Company of a pro-forma invoice. The time of payment of the price shall be of the essence of the Contract.

7.3 All payments shall be made without any deduction, withholding or set-off.

7.4 Failure by the Customer to pay any invoice by its due date shall entitle the Company to:

- (a) at its option, charge interest at the rate of five percent (5%) per annum above Lloyds TSB Bank plc's base lending rate from time to time calculated on a daily basis (whether before or after any judgment) until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);
- (b) charge the Customer with any costs incurred by the Company in the course of collecting outstanding monies due to the Company from the Customer, including the cost of taking legal action against the Customer in order to obtain payment;
- (c) suspend any warranty for the Goods or any other goods supplied by the Company to the Customer, whether or not they have been paid for;
- (d) appropriate any payment made by the Customer to such of the Goods as the Company may think fit;
- (e) set off any amount owed by the Company to the Customer against any amount owed by the Customer to the Company on any account whatsoever;
- (f) terminate the Contract, or suspend or cancel any future delivery of Goods;
- (g) cancel any discount (if any) offered to the Customer; and
- (h) if the Customer has an approved credit account, withdraw or reduce its credit limit or bring forward its due date for payment without notice.

7.5 The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

7.6 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

7.7 The Company shall be under no obligation, notwithstanding any agreement to the contrary, to supply the Goods due under the Contract if the Company has any doubts as to the Customer's solvency and the Company may in such circumstances (without any liability on the Company's part) withhold Goods contracted to be sold to the Customer without any repudiation of the Contract being implied or expressed or any legal proceedings being necessary.

**8. FORCE MAJEURE:**

The Company reserves the right to defer the date of delivery of the Goods, or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from, or delayed in, the carrying on of its business (wholly or in part) due to circumstances beyond the reasonable control of the Company including, without limitation, Acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers, or any inability or delay in obtaining Goods of adequate or suitable materials, or the failure or demise of any source of supply.

**9. WARRANTY:**

9.1 The Company will endeavour to transfer to the Customer the benefit of any manufacturer's warranty or guarantee given to the Company and the Company warrants (subject to the other provisions of these Conditions) that:

- (a) on delivery, the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- (b) if the Customer has made it expressly known to the Company in the Customer's order that the Goods shall be suitable for a particular purpose and the Company has expressly stated in its written acceptance of the Customer's order that it will supply Goods suitable for that purpose, then the Goods shall be reasonably fit for the purpose so stated.

9.2 The Company's liability pursuant to clause 9.1 shall be limited to the replacement of any part of the Goods found to be defective and notified to the Company within the period set forth in clause 9.3 (or, if the claim is on any manufacturer's warranty, within the relevant manufacturer's warranty period).

9.3 Any fault in, or shortage or failure to correspond to specification of the Goods shall be notified to the Company within 5 days of the Customer's receipt of the Goods; otherwise, the Goods shall be deemed to be satisfactory and a charge will be made for additional rectification work.

9.4 The Company shall not be liable for any breach of any warranty in clause 9.1, if:

- (a) the Customer makes any further use of any Goods which the Customer has alleged to be defective after giving notice of any such defect;
- (b) the Customer modifies, adjusts, alters or repairs the Goods without the prior written consent of the Company;
- (c) the defect arises because the Customer failed to follow any oral or written instructions as to the storage, installation, use or maintenance of the Goods or (if there are none) good trade practice;
- (d) the defect arises from any Input Material supplied by the Customer, or from fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse of the Goods or from any other cause which is not due to the neglect or default of the Company;
- (e) the defect arises by virtue of any act or omission of the Customer relating to the operation of the Goods, or by subjecting the Goods to any unusual physical or other stress or adverse environmental conditions, or by use of the Goods in excess of any performance specifications stated in the Company's catalogue or otherwise stated by the Company;

- (f) the defect arises from any exposure of the Goods to any foreign agent including, without limitation, any chemicals which may cause abrasion or discolouration;
- (g) the defect arises from any exposure of the Goods to fire, flood or explosion;
- (h) the full price for the Goods has not been paid by the time for payment stipulated in clause 7.2; or
- (i) the defect is of a type specifically excluded by the Company by notice in writing.
- 9.5 If upon investigation, the Company reasonably determines that any fault in, or shortage or failure to correspond to specification of the Goods is a result of, or is excused by, any of the matters referred to in clause 9.4, the Customer shall be liable for all costs reasonably incurred by the Company in investigating the same and determining the cause.
- 9.6 Subject to and without limiting the generality of any of the provisions of this clause 9, the Company offers a 6 month warranty on all hand tools, power tools and spares. The warranty covers defective workmanship and materials and the warranty period commences on the date of despatch.
- 9.7 Claims for non-delivery of Goods must be made within 14 days of the despatch date of the Goods.
- 10. EXCLUSION OF LIABILITY AND INDEMNITY:**
- 10.1 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- (a) any breach of these Conditions;
- (b) any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods; and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2 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) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these Conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.
- 10.4 Subject to clause 10.2 and clause 10.3:
- (a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- (b) the Company shall not be liable to the Customer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or for any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 10.5 The Customer shall hold the Company harmless and keep the Company fully and promptly indemnified against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the Company as a result of or in connection with any claim made by or against the Company in respect of any liability, loss, damage, injury, cost or expense whatsoever, howsoever and to whomsoever occurring, to the extent that such liability, loss, damage, injury, cost or expense arises directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Company confirming such costs, charges and losses to the Customer in writing.
- 11. EXPORT TERMS:**
- 11.1 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms 2010 shall have the same meaning in these Conditions.
- 11.2 Where the Goods are supplied for export from the United Kingdom the provisions of this clause 11 shall (subject to any special terms agreed in writing between the Customer and an authorised representative of the Company) apply notwithstanding any other provision of these Conditions.
- 11.3 The Customer shall be responsible for complying with any legislation or regulations governing the packaging and labelling of the Goods and their importation into the country of destination and for the payment of any duties thereon.
- 11.4 Unless otherwise agreed in writing between the Customer and the Company, the Goods shall be delivered Ex Works the Company's place of business and the Company shall be under no obligation to give the Customer the notice relating to insurance mentioned under Section 32(3) of the Sale of Goods Act 1979.
- 11.5 The Customer shall be responsible for arranging for the testing and inspection of the Goods at the Company's place of business before shipment. The Company shall have no liability for any defect in the Goods which would be apparent on inspection and in respect of which notification is made after shipment, or in respect of any damage to the Goods whilst in transit during shipment.
- 11.6 Payment of all amounts due to the Company shall be made by irrevocable letter of credit opened by the Customer in favour of the Company and confirmed by a bank in the United Kingdom acceptable to the Company, or if agreed in writing by an authorised representative of the Company on or before acceptance of the Customer's order to waive this requirement, by acceptance by the Customer and delivery to the Company of a bill of exchange drawn on the Customer payable 30 days after sight to the order of the Company at such branch of the Company's bankers in the United Kingdom as may be specified by the Company in the bill of exchange.
- 12. RISK AND TITLE:**
- 12.1 Risk of damage to or loss of the Goods shall pass to the Customer upon delivery of the Goods to the Customer.
- 12.2 Title to the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- (a) the Goods; and
- (b) all other sums which are or which become due to the Company from the Customer on any account.
- 12.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) hold the Goods on a fiduciary basis as the Company's bailee;
- (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery and

indemnify the Company against all loss or damage of whatsoever nature affecting the Goods;

- (e) notify the Company immediately if it becomes subject to any of the events listed in clause 13.1 (d)- (k) (inclusive);
- (f) not assign to any other person any rights arising from a sale of the Goods without the Company's written consent (and then only subject to a set of terms and conditions containing a Risk and Title clause which is at least as onerous as this clause 12); and
- (g) give the Company such information relating to the Goods as the Company may require from time to time, but the Customer may resell the Goods in the ordinary course of its business, provided that it shall hold the entire proceeds of any such resale upon trust for the Company until the Goods have been paid for in full and shall keep all such trust monies in a separate bank account which shall not be overdrawn and in which such trust monies are not mingled with its own or any other monies. The Customer acknowledges and agrees that a sale by an administrator or liquidator as part of or in connection with the sale of the assets or part of the assets of the Customer is not in the ordinary course of the Customer's business.

12.4

If:

- (a) the Customer is late in paying for the Goods; or
- (b) the Customer is late in paying for any other goods supplied by the Company; or if
- (c) before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clause 13.1 (d)- (k) (inclusive) or the Company reasonably believes that any such event is about to happen and notifies the Customer accordingly, then:

without limiting any other right or remedy the Company may have, the Company may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, the Company may enter any premises of the Customer or of any third party where the Goods are stored or kept in order to recover them. The Customer shall not keep the Goods at any premises at which the Customer does not have the right to grant access to the Company. Any costs, charges and expenses incurred by the Company in recovering the Goods (including legal fees) shall be payable by the Customer upon demand.

### 13. TERMINATION:

13.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
- (b) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- (c) the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits

inability to pay its debts or (being a Company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) 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 or (being a partnership) has any partner to whom any of the foregoing apply; or

- (e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
- (h) a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this clause 13.1 (d)- (j) (inclusive); or
- (l) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (m) there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001).

13.2 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of any Goods supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt; and
- (b) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

### 14. ORDERS FOR GOODS PLACED THROUGH THE COMPANY'S WEBSITE:

14.1 [www.zygology.com](http://www.zygology.com) (the site) is a website owned and operated by Zygology Limited. The Company is registered in England and Wales under company number 6025984, having its registered office at 71

- Queen Victoria Street, London, EC4V 4BE, United Kingdom and its main trading address at Thame 40, Jane Morbey Road, Thame, Oxon OX9 3RR, United Kingdom.
- 14.2 If the Customer wishes to purchase Goods through the site, the Customer is agreeing to comply with and be bound by the terms and conditions contained in this clause 14, which together with all other applicable terms and conditions incorporated in these Conditions shall govern all sales made through the site (save that in the event of any conflict, the terms and conditions contained in this clause 14 shall prevail).
- 14.3 The content of the pages of the site is for the Customer's general information and use only and is subject to change without notice.
- 14.4 All Goods are offered by the Company subject to availability and the Company reserves the right to cancel any order placed by the Customer if the Company has insufficient stock to deliver the Goods the Customer has ordered.
- 14.5 By placing an order through the site, the Customer warrants that:
- (a) the Customer is legally capable of entering into binding contracts; and
  - (b) the Customer is at least 18 years old.
- 14.6 All orders are subject to acceptance by the Company, and the Company will confirm such acceptance to the Customer by sending the Customer an e-mail dispatch notification together with a delivery note verifying that the Goods are ready to be dispatched (the **Dispatch Notification**). The Contract between the Customer and the Company will only be formed when the Company sends the Customer the Dispatch Notification.
- 14.7 The Contract will relate only to those Goods whose dispatch the Company has verified in the Dispatch Notification. The Company will not be obliged to supply any other Goods which may have been part of the Customer's order until the dispatch of such Goods has been verified in a separate Dispatch Notification.
- 14.8 The Customer's order will be fulfilled by the delivery date set out in the Dispatch Notification or, if no delivery date is specified, then within a reasonable time of the date of the Dispatch Notification.
- 14.9 The Company will deliver the Goods ordered by the Customer to the address the Customer gives the Company for delivery when the Customer places its order. It is the Customer's responsibility to ensure that the delivery address is accurate and complete; the Customer must also ensure that there will be somebody to sign for and take delivery of the Goods upon delivery.
- 14.10 All UK deliveries will be made by a reputable courier company and will be charged at the rates set out in the site at the time of purchase.
- 14.11 Non-UK delivery options will be quoted by the Company to the Customer when the Customer places its order. The Company's Export Department will advise the Customer on any special delivery terms applicable to deliveries outside the United Kingdom.
- 14.12 The Customer may be required to pay extra for delivery to certain destinations and it might not be possible for the Company to deliver to some locations. If the Company is unable to deliver to the Customer's location the Company will notify the Customer of this by email and invite the Customer to choose a different delivery location; if the Customer is unable or unwilling to do this, the Company reserves the right to cancel the Customer's order and refund the Customer's payment.
- 14.13 If the Customer's order is returned to the Company because the courier could not complete delivery to the Customer for any reason, the Customer will be responsible for the additional delivery charges if the Goods are re-delivered. The Company will contact the Customer upon the return of the Goods to the Company by the courier and the Company can either arrange re-delivery of the Goods, or the Customer will have the option of cancelling the Customer's order and the Company will refund the Customer's payment, less delivery charges.
- 14.14 For small orders, the Company will be entitled to make a small order charge.
- 14.15 In the event that the Customer is in breach of the Contract, the Company reserves the right to refuse to supply the Customer with any additional Goods, or to suspend the delivery of any Goods, without limiting any other remedy available to the Company. The Company may exercise this right until such time as the breach has been remedied, where such breach is remediable.
- 14.16 All quoted prices exclude VAT (where applicable) unless otherwise stated. VAT and delivery charges will be added to the sales total at the checkout stage.
- 14.17 The price of the Goods will be as quoted on the site from time to time, except in cases of obvious error.
- 14.18 All prices and charges shown on the site are in UK pounds sterling, which is the currency in which the Customer will be billed; any other currency displayed on the site is for comparison only. If the Customer purchases the Goods from outside the United Kingdom, currency fluctuations and credit card charges may make a difference to the amount billed to the Customer's credit or debit card.
- 14.19 Prices are liable to change at any time, but changes will not affect orders in respect of which the Company has already sent the Customer a Dispatch Notification.
- 14.20 The site contains a large number of Goods and it is always possible that, despite the Company's best efforts, some of the Goods listed on the site may be incorrectly priced. The Company will normally verify prices as part of the Company's dispatch procedures so that, where the correct price of the Goods is less than the Company's stated price, the Company will charge the lower amount when dispatching the Goods to the Customer. If the correct price of the Goods is higher than the price stated on the site, the Company will normally, at the Company's discretion, either contact the Customer for instructions before dispatching the Goods, or reject the Customer's order and notify the Customer of such rejection.
- 14.21 The Company is under no obligation to provide the Goods to the Customer at the incorrect (lower) price, even after the Company has sent the Customer a Dispatch Notification, if the pricing error is obvious and unmistakable and could have reasonably been recognised by the Customer as a mispricing.
- 14.22 Payment in full for all Goods is required at point of sale. Goods will not be dispatched until full payment has been received; this will not be deemed to have occurred until the credit or debit card used by the Customer to make payment has been verified. The Company accepts payment with the following credit and debit cards, VISA, VISA Debit, Mastercard.
- 14.23 **Subject to the rights of any Customer who contracts with the Company as a consumer (see clauses 14.24-14.32 below)** no cancellation, suspension or variation of the Contract requested by the Customer shall be valid unless agreed with the Company in writing and such agreement will only be given, subject to adequate compensation or expenses incurred in connection with the Contract and for any loss of profit. In addition to the above compensation, the Company reserves the right to impose an inspection, handling, restocking and administration charge, at its discretion.
- 14.24 A Customer shall be deemed to be placing their order for Goods from the Company as a consumer if the Customer is not acting for the purposes of their business, trade or profession in purchasing Goods from the Company. All other Customers shall be deemed to be business customers.
- 14.25 A consumer may cancel a Contract entered into with the Company through the site (without giving any reason for cancellation) at any time within the period:
- (a) beginning upon the submission of the Customer's order; and

- (b) ending at the end of 14 days after the day on which the Goods come into the Customer's physical possession or the physical possession of a person identified by the Customer to take possession of them (or, if the Contract is for delivery of multiple Goods, lots or pieces of something, 14 days after the day on which the last of those Goods, lots or pieces comes into the Customer's physical possession or the physical possession of a person identified by the Customer to take possession of them).
- 14.26 In order to cancel a Contract on the basis described in clause 14.25, the Customer must inform the Company of the Customer's decision to cancel. The Customer may inform the Company by means of any clear statement setting out the decision. To meet the cancellation deadline, it is sufficient for the Customer to send the Customer's communication concerning the exercise of the right to cancel before the cancellation period has expired.
- 14.27 The Customer must send the Goods back to the Company or hand them over to the Company or a person authorised by the Company to receive them. The Customer must comply with the Customer's obligations referred to in this clause 14.27 without undue delay and in any event not later than 14 days after the day on which the Customer informs the Company of the Customer's decision to cancel the Contract. The Customer must pay the direct cost of returning the Goods.
- 14.28 If the Customer cancels a Contract on the basis described in clause 14.25, the Customer will receive a full refund of the amount the Customer paid to the Company in respect of the order including the costs of delivery to the Customer.
- 14.29 If the value of the Goods returned by the Customer is diminished by any amount as a result of the handling of those Goods by the Customer beyond what is necessary to establish the nature, characteristics and functioning of the Goods, the Company may recover that amount from the Customer up to the Contract price. The Company may recover that amount by deducting it from any refund due to the Customer or require the Customer to pay that amount direct to the Company. Handling which goes beyond the sort of handling that might reasonably be allowed in a store will be "beyond what is necessary to establish the nature, characteristics and functioning of the Goods" for these purposes.
- 14.30 Unless the Company has offered to collect the Goods, the Company will process a refund due to the Customer as a result of a cancellation on the basis described in clause 14.25 within the period of 14 days after the day on which the Company receives the returned Goods or (if earlier) after the day on which the Customer supplies to the Company evidence of having sent the Goods back. If the Company has not sent the Goods to the Customer at the time of cancellation or has offered to collect the Goods, the Company will process a refund due to the Customer without undue delay and, in any case, within the period of 14 days after the day on which the Company is informed of the cancellation.
- 14.31 The cancellation right described in clause 14.25 is in addition to any other right that the Customer might have to reject the Goods, for instance because they are faulty or defective.
- 14.32 The Customer will not have the right to cancel a Contract on the basis described in clause 14.25 in respect of any made-to-order, specially modified or custom Goods.
- 14.33 Subject to the rights of any Customer who contracts with the Company as a consumer (see clauses 14.24-14.32 above) any Goods returned to the Company by the Customer will be examined by the Company and the Customer will be notified via e-mail within a reasonable time of any refund to which the Customer is entitled. The Company will usually process the refund as soon as possible thereafter. Goods may not be returned without prior notification and an order number must be obtained from the Company prior to returning the Goods. Any made-to-order, specially modified or custom Goods may not be returned unless the Goods are found to be damaged and/or faulty. The return of goods is entirely at the Company's discretion.
- 14.34 The Company will normally refund any money received from the Customer using the same method originally used by the Customer to pay for the Customer's purchase.
- 15. NOTICES:**
- 15.1 All notices and other communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or email:
- (a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Customer by the Company; or
- (b) (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Customer.
- 15.2 Communications shall be deemed to have been received:
- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- (b) if delivered by hand, on the day of delivery; or
- (c) if sent by fax or email, on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 16. GENERAL:**
- 16.1 No forbearance or indulgence granted by the Company to the Customer shall in any way limit the rights of the Company under these Conditions.
- 16.2 Neither the Company nor the Customer intends that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 16.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 16.4 The Company shall be entitled at its discretion to perform any of the obligations assumed by it and to exercise any of its rights granted to it under the Contract through any other company or subsidiary.
- 16.5 The Contract constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements and understandings between the parties.
- 16.6 Any dispute arising under or in connection with the Contract shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application by either party to the President for the time being of the Law Society whose decision as to the type, qualifications and experience of such arbitrator shall be final and binding on the parties.
- 16.7 The costs of the arbitrator shall be borne by the parties as he directs and his decision on the issue in dispute shall be final.
- 16.8 These Conditions shall be subject to and construed under English Law and the parties hereby submit to the non-exclusive jurisdiction of the English Courts for that purpose.