

## TERMS AND CONDITIONS OF SALE

### DEFINITIONS

In these Conditions the following expressions shall have the following meanings:

- (i) **'The Company'** means TCE Transmission Limited, TCET, ALS, Autolubricatorshop
- (ii) **'Goods'** means the articles or things or any of them described in the Contract;
- (iii) **'The Buyer'** means the person, firm or company with whom the Contract is made by the Company, whether directly or indirectly through an agent or factor who is acting for or instructed by or whose actions are ratified by such person firm or company;
- (iv) **'Company's Premises'** means the premises mentioned in the Company's quotation or other contractual document or if not so mentioned means the Company's works.
- (v) **'The Contract'** means the Company's quotation for the sale or supply of the Goods or Services and any document referred therein, these Conditions of Sale, the Company's acknowledgement of the Buyer's order for the Goods or Services and the Buyer's order for the Goods or Services, and if there shall be any inconsistency between the documents comprising the Contract they shall have precedence in the order herein listed.
- (vi) **'Incoterms'** means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions but if there is any conflict between the provisions of Incoterms and these Conditions the latter shall prevail.

- (vii) **‘Services’** [Refurbishment of Goods (regardless of whether manufactured or supplied by the Company), servicing of Goods, advising as to which type of Goods are required for a particular function, drawing and advising on specifications, installation of Goods, site surveys, commissioning and training of the buyer’s employees agents and subcontractors.]

## **GENERAL**

These conditions shall be deemed to be incorporated in all contracts of the Company to sell Goods or supply Services and in the case of any inconsistency with any order letter or form of contract sent by the Buyer to the Company or any other communication between the Buyer and the Company whatever may be their respective dates the provisions of these conditions shall prevail unless expressly varied in writing and signed by a director on behalf of the Company. Any concession made or latitude allowed by the Company to the Buyer shall not affect the strict rights of the Company under the Contract. If in any particular case any of these conditions shall be held to be invalid or shall not apply to the Contract the other conditions shall continue in full force and effect. The Company’s Terms & Conditions of Sale shall over ride any other contract conditions from the customer. The company or it’s Directors & employees, do not offer advice only observations & legal advice should be sought by clients before acting on any observations made.

## **ORDERS**

Unless verbal, telephone or telegraphic orders and any variations to orders are confirmed in writing by the Buyer the Company shall not be responsible for errors or subsequent misunderstandings.

Notwithstanding that the Company may have given a detailed quotation no order shall be binding on the Company unless and until it has been accepted in writing, orally by an authorised agent or employee of the Company or there is implied acceptance by the Company by its fulfilment of the order.

For goods supplied on a “call off” order basis; no call off order will be more than 12 months in duration & all outstanding amounts become due upon reaching this time limit. The company reserves the right to ask for full payment of goods supplied on a “call off” order basis at any time & especially where regular “calling off” of ordered items fails to be on a “regular basis”. The company reserves the right to set the terms for “regular basis” time periods.

Orders for special products. The company cannot accept cancellation of orders for any goods made specifically to customers requirements. Any disputes regarding specification of products supplied, must be raised in writing to the Company within 7 days of receipt of goods, after this time the goods will be deemed as accepted by the buyer.

Unless earlier withdrawn or stated otherwise quotations are open for acceptance for a period of thirty days from the date of issue.

#### **CUSTOM FILLING OF LUBRICATORS**

Custom filling of lubricators is offered as a service to customers, however whilst every care is taken when filling lubricators or lubricator refill cartridges with customer’s choice of lubricant, air bubbles may be present in the containers when received. If perceived as a problem, lubricant cartridges or lubricators should be inverted & air allowed to settle to exit nozzles for venting before first usage.

The company accepts no liability or responsibility whatsoever, for air bubbles entering lubrication lines or products being lubricated & any problems/ damage that may occur as a result. Suitable precautions should be taken by customers before first usage of lubricator units, if air in a lubrication system or products can cause problems.

#### **LUBRICATOR SPECIFICATIONS/ SETTINGS**

All lubrication specifications & settings provided should be taken as approximate & used as a guideline only. These are theoretical in manner & should not be taken as exact. All Lubricator settings should be adjusted to suit requirements by the customer. The company will offer approximate specifications & settings as a service aid only & do not accept any liability or

responsibility whatsoever for any inaccuracy in approximate settings given or any problems/ damage that may occur as a result.

## **DIVISIBILITY**

The Company reserves the right to make deliveries/and or services by instalments and to render a separate invoice in respect of each such instalment.

If the Company exercises its right to make deliveries/and or services in accordance with sub-paragraph (a) above, then any delay in the provision of such deliveries/and or services, or failure to deliver any further instalment or instalments, shall not entitle the Buyer to reject the Contract or the delivery/service of any other instalment or to withhold payment in respect of any instalment previously delivered/serviced.

## **PRICES**

The price payable for Goods and/or Services shall, unless otherwise stated by the Company in writing and agreed on its behalf, be the list price of the Company current at the date of despatch.

All prices are exclusive of Value Added Tax, insurance, carriage and delivery charges. This will be charged at the appropriate rate.

The Company's prices are subject to adjustment to take account of any variation in the Company's costs including (but not limited to) variations in wages, the cost of materials, exchange rate fluctuations, alterations of duties and other costs since the date of the Company's quotation or (if no quotation is issued) the Buyer's order. The Company accordingly reserves the right to adjust the invoice price by the amount of any increase or decrease in such costs after the price is quoted. The invoice so adjusted shall be payable as if the price set out therein were the original contract price.

The Company will be entitled to charge the prescribed minimum order value requirement (at the date of sale of the Goods and Services) if the Buyer orders Goods on credit to a value below the Company's prescribed minimum order value requirement.

## **TERMS OF PAYMENT**

Unless otherwise stated by the Company in writing and recorded on the Company's acknowledgement of order, the price for the Goods and Services and any charges payable shall be due in the case of Goods when the buyer orders them and in the case of Services when the Services are supplied. For goods supplied on a "call off" order basis, payment will be due when items are "called off" & under normal payments terms of 30 days. However, no call off order will be more than 12 months in duration & all outstanding amounts become due upon reaching this time limit. The company reserves the right to ask for full payment of goods supplied on a "call off" order basis at any time & especially where regular "calling off" of ordered items fails to be on a "regular basis". The company reserves the right to set the terms for "regular basis" time periods.

Where the Goods or Services are supplied on credit, the payment shall be due in cash not later than 30 days from the date of the invoice. Time for payment shall be of the essence.

Without prejudice to any other rights it may have, the Company shall charge interest at 4% above the then Current Base Rate of Lloyds Bank PLC on overdue payments of the price of the Goods.

The Buyer shall not be entitled to any deductions, discounts or rebates for prompt or early payment. The Buyer shall pay the price of the Goods and Services, including any additional by virtue of this clause, and all charges due under this contract without any deduction whether by way of set-off, counterclaim or otherwise.

Where payment is outstanding beyond 7 days from the due date, the Company reserves the right to suspend, cancel or otherwise take any action appropriate to recover monies owed to it.

## **DELIVERY**

Unless otherwise agreed by the Company in writing, delivery of the Goods shall take place at the Company's Premises.

All times or dates given for delivery of the goods are given in good faith but without any responsibility on the part of the Company. Time of delivery shall not be of the essence of any contract nor shall the Company be under any liability for any delay beyond the Company's control.

Where the Goods are handed to a carrier for carriage to the Buyer or the United Kingdom port for export any such carrier shall be deemed to be an agent of the Company and not of the Buyer for the purposes of Sections 44, 45, and 46 of the Sale of Goods Act 1979.

The Buyer agrees that Section 32(3) of the Sale of Goods Act 1979 shall not apply to Goods sent by the Company.

No liability for non-delivery loss of or damage of the Goods occurring prior to delivery or for any claim that the Goods are not in accordance with the Contract will attach to the Company unless claims to that effect are notified in writing by the Buyer to the Company (and in the case of claims for non-delivery loss or damage with a copy to the carrier if the Company's own vehicles have not been used to deliver the Goods): (a) within seven days of delivery for loss damage or non-compliance with the Contract or (b) within ten days of the date of the invoice for non-delivery.

In the event of a valid claim for non-delivery loss damage or non-compliance with the Contract the Company undertakes at its option either to repair or replace the Goods at its expense but shall not be under any further or other liability to any person in connection with such non-delivery loss damage or non-compliance.

If the Buyer shall fail to give notice in accordance with condition 6(4) above the Goods shall be deemed to be in all respects in accordance with the Contract. Without prejudice to earlier acceptance by the Buyer it shall be bound to accept and pay for the same accordingly.

The Buyer will at its own cost, unless otherwise agreed in writing, supply all machinery equipment and labour, lay on all services and make all other preparations as shall be necessary for the off-loading, commissioning, and/or testing, installation, and proper working delivery of the Goods and/or supply of Services at the Buyer's premises.

## **RETURNS**

Goods supplied in accordance with the Contract cannot be returned without the Company's prior written authorisation. Duly authorised returns shall be sent to the Company's Premises at the Buyer's expense.

## **PACKING AND CARRIAGE**

Unless otherwise agreed by the Company in writing the prices of the Goods are exclusive of packing and carriage.

## **DAMAGES AND DEFECTS**

The Company warrants that subject to the normal limits of industrial quality the Goods shall at the time of despatch be reasonably fit for the purpose for which the Buyer has given written details (if any) to the Company prior to the contract and be of satisfactory quality and correspond with the description to which they are sold. If any goods do not conform to that warranty the Company will at its option repair or replace the Goods but the Buyer (and not the Company) shall be responsible for the cost and expense of re-delivering the same and the cost of removing defective goods (including all travelling and other expenses) and supplying any materials or substances previously supplied by or on behalf of the Buyer and the Goods shall remain at the risk of the Buyer at all times. In the case of parts sent to the Buyer with which the buyer repairs the Goods, once the buyer has tampered with the Goods the warranty is invalidated. Also once the Buyer has used the goods or tampered or altered the goods in any way, any and all warranties are invalidated.

In the case of products supplied on a trial basis, normal warranty period does not apply.

In the case of the Services the Company warrants that the Services will be carried out with reasonable skill and care.

The foregoing warranties under this clause are conditional upon:

- (i) the Buyer giving written notice to the Company of the alleged defect in the Goods and/or Services, such notice to be received by the Company within seven days of the time when the Buyer discovers or ought to have discovered the defect and in any event within 7 days of delivery of the Goods and/or provision of the Services;
- (ii) the Buyer affording the Company a reasonable opportunity to inspect the Goods or if so requested by the Company returning the allegedly defective Goods to the Company's works carriage paid for inspection to take place there;
- (iii) the Buyer making no further use of the Goods after the time at which the Buyer discovers or ought to have discovered the defect;
- (iv) the defective Goods having been installed used stored and maintained in accordance with any instructions issued by the Company or in accordance with general trade practice and there being no negligence or misuse on the part of the buyer its servants or agents nor the Goods having been altered or repaired by any person other than the Company or those authorised by the Company.
- (v) The Company being satisfied that the defect in the Goods and/or Services was due to its defective workmanship or use of defective materials and without prejudice to the foregoing the Company shall be under no liability for defects due to wear and tear or neglect or use of the Goods for any purposes other than those for which they are designed;
- (vi) The defective Goods not having been sold let hired or otherwise disposed of by the Buyer to a second or subsequent user or purchaser.

The total liability of the Company for any loss of the Buyer in respect of any one event or series of connected events (excluding indirect or consequential loss or damage howsoever caused) shall in the case of orders for Goods and/or Services (excluding VAT) be the value of the individual item or £500 total, whichever is the lesser in value.

Save as otherwise provided in this clause and to the extent permitted by law:-

- (i) all other conditions and warranties express or implied are hereby expressly excluded;
- (ii) The Company shall be under no liability for any loss or damage howsoever caused which arises in respect of the Buyer's liabilities to any third party;



- (iii) The Company shall be under no liability for any direct or indirect or consequential loss or damage howsoever caused and without prejudice to the foregoing the Company shall not be liable for any costs claims or damages or expenses arising out of any tortuous acts or omissions or any breach of contract or statutory duty calculated by reference to profits, income production or accruals or loss of such profits, income production or accruals or by reference to accrual of such costs claims damages or expenses on a time basis.

Nothing contained in these Conditions shall be construed as an attempt to exclude or limit the liability of the Company in negligence for the death of or injury to any person.

Where the Goods and/or Services are not manufactured or processed by the Company, it gives no warranty as to patent registered design copyright and other industrial property rights in or in connection with the Goods and/or Services.

The Company accepts no responsibility for any drawing design or specification not prepared by the Company and the Company give no warranty guarantee representation or opinion on the practicability of construction or of the efficacy safety or otherwise of materials to be supplied or work to be executed by the Company in accordance therewith and the Buyer shall be responsible for the cost of any additional work caused by defects in any such drawings designs or specifications. The company does not offer normal warranties on products supplied on a trial basis.

#### **THE COMPANY'S LIEN**

In addition to any other right or lien to which the Company may by law or the other terms hereof be entitled the Company shall be entitled to a general lien on all the goods and property of the Buyer in the Company's possession whether paid for or not and the right of sale of such Goods and property at the Company's sole discretion for any unpaid money due under the terms of any contract between the Company or any Associated Company and the Buyer or any Associated Company of the Buyer.

For the purposes of this clause a company is to be treated as another's "Associated Company" if one of the two has control of the other (whether directly or indirectly) or both are under the control of the same person or persons (whether directly or indirectly) and for the purposes of this definition the expression "control" shall have the meaning attributed thereto by Section 416 of the Income and Corporation Taxes Act 1988.

The Company shall have the right to put any Goods or property over which it has a lien into a saleable state by any means whatsoever and (without prior notice to the Buyer) to sell such Goods whether by private treaty or otherwise on such terms as the Company may agree at its sole discretion. Out of the proceeds of sale the Company shall be entitled to retain a sum equivalent to all unpaid monies due to it from the Buyer as aforesaid together with the cost of putting the Goods into a saleable state as aforesaid and the expenses of sale and any balance shall be paid to the buyer.

#### **TERMINATION OR CANCELLATION**

In the event of:

- (i) any distress execution or other legal process being levied upon any of the Buyer's assets;
- (ii) the Buyer entering into any arrangement or composition with its creditors committing any act of bankruptcy or (being a corporation) an order being made or an effective resolution being passed for its winding up except for the purposes of amalgamation or reconstruction as a solvent company or a Receiver and Manager Receiver Administrative Receiver or Administrator being appointed in respect of the whole or any part of its undertaking or assets;
- (iii) an encumbrancer taking possession of any of the property or assets of the Buyer;
- (iv) the Buyer ceasing or threatening to cease to carry on business;
- (v) non-payment by the Buyer of any monies due from it to the Company;
- (vi) any breach of these conditions by the Buyer;
- (vii) the Buyer reasonably apprehending that any part of the events mentioned above is about to occur in relation to the buyer;

The Company shall be entitled to suspend all or any work on or future deliveries and instalments of the Goods and/or the provision of Services under this or any other contract and on written notice to cancel the undelivered portion of this or any contract between the buyer and the Company and sell the Goods elsewhere and/or deem that the whole of the price under this or any other contract shall be payable immediately.

In the event of any such cancellation by the Company in accordance with the provisions in this agreement or any cancellation and/or repudiation of the contract by the Buyer, the Company shall be entitled to recover as damages from the Buyer all loss and damage of whatever kind consequential or otherwise which the Company shall sustain in connection with such cancellation.

The exercise of the rights conferred by this Condition shall be without prejudice to any other right enjoyed by the Company pursuant to these Conditions or by law including in particular the right to recover the Goods or the proceeds thereof from the buyer pursuant to the next clause.

#### **PASSING OF TITLE AND RISK**

From the time of delivery the Goods shall be at the risk of the Buyer who shall be solely responsible for their custody and maintenance but, unless otherwise expressly agreed in writing, the Goods shall remain the property of the Company until all payments under the Contract have been made in full and unconditionally. Whilst the ownership of the Company continues the Buyer shall keep the Goods separate and identifiable from all other goods in its possession as bailee for the Company.

In the event of any resale by the Buyer of the Goods the beneficial entitlement of the Company shall attach to the proceeds of sale or other disposition thereof so that such proceeds or any claim therefore shall be assigned to the Company and until and subject to such assignment shall be held on trust in a separate identified account for the Company by the Buyer who will stand a strictly fiduciary capacity in respect thereof.

In event of failure to pay the price in accordance with the Contract, the Company shall have power to resell the Goods. Such power being additional to (and not in substitution for) any other power of sale arising by operation of law or implication or otherwise and for such purposes the Company and its servants and agents may forthwith enter upon any premises or land occupied or owned by the Buyer to remove the Goods.

## **CONDITIONS AND WARRANTIES**

The Contract shall not constitute a sale by description or sample.

Any conditions or warranties (whether express or implied by statute common law or arising from conduct or a previous course of dealing or trade custom or usage) as to the quality of the Goods or their fitness for any particular purposes (even if that purpose is made known expressly or by implication to the Company) or as to the correspondence of the Goods with any description or sample are hereby expressly negatived.

The Company reserves the right to make without notice such reasonable modifications in specifications descriptions designs materials or finishes as it deems necessary or desirable. The Buyer shall not be entitled to object to or reject the Goods or Services or any of them by reason of such reasonable modifications.

## **DEFECTIVE GOODS**

The Company and the Goods and Services it supplies, to the best of its knowledge, comply in all aspects with the requirements of the Health and Safety at Work Act 1974 and all related legislation.

Subject to the provisions of this Agreement, if a competent authority declares that the goods are unsafe or a risk to health in any respect the Buyer shall notify the Company immediately. The Company shall at the buyer's expense make such modification to the Goods or Services or supply such additional or replacement parts for the Goods as such competent authority shall consider necessary to ensure that the Goods comply with any necessary requirements.

In the case of Goods not manufactured by the Company, the Company will pass on to the Buyer to the extent that it is able any benefits obtainable under any warranty given by the Company's supplier provided that the Goods have been accepted and paid for.

Nothing herein shall impose any liability on the Company in respect of any defect in the Goods arising out of the acts, omissions negligence or default of the Buyer its servants or agents including in particular without prejudice to the generality of the foregoing any failure by the Buyer to comply with any recommendations of the Company as to storage and use of the Goods (including without limitation any instructions provided by the Company as to the calibration of the Goods).

Nothing herein shall have the effect of excluding or restricting the liability of the Company for death or personal injury resulting from its negligence in so far as the same is prohibited by United Kingdom statute.

#### **CONSEQUENTIAL LOSS**

The Company shall not be liable for any costs claims or damages or expenses arising out of any tortious act or omission or any breach of contract or statutory duty calculated by reference to profits, income, production or accruals or loss of such profits, income, production or accruals by reference to accrual of such costs, claims, damages or expenses on a time basis.

#### **NOTICE**

Any notice to be given or served under these Conditions shall be addressed in the case of a notice to be given to or served on the Buyer at the address of the Buyer shown on the contract or invoice (or if none its registered office for the time being in the case of a Company or in any other case its last known address) and in the case of the Company at its registered office for the time being.

Any notice required to be given or sent under these Conditions may be given or served either: -

- (i) by letter leaving the same or sending the same by first class post in a pre-paid envelope and a notice so given or served shall be deemed to have been given or served on the

day it was so left or on the day following that on which it was posted in the case of the Company or in the case of the Buyer if the address of the buyer is within the United Kingdom; or within 7 days of the date of posting otherwise; or

- (ii) by telex cable or facsimile transmission and a notice so given or served shall be deemed to have been given or served within 24 hours of transmission.

## **TESTING, INSTALLATION, ADJUSTMENT & MEASUREMENT**

Where the Buyer requires the Company to carry out tests on the Goods, the Company may charge the Buyer at a reasonable rate for work done and materials used in testing.

Where the Company carries out work at the Buyer's request at any place other than its own premises, without prejudice to any other remedy the Company may have, the Buyer shall indemnify the Company against any losses it may suffer (including any damages, costs and expenses it may have to pay) as a result of damage to the Company's property or claims against the Company by its employees or by any third party where the losses arise from the nature condition or state of repair of the place or any materials or equipment in that place or from any negligence of the buyer, its servants or agents or any third party. Any persons or third party instructed by the Company to carry out work at the Buyer's request at any other place other than its own premises, will have adequate Insurance cover & for any works carried out the Company shall not be liable for any costs claims or damages or expenses arising out of any tortuous act or omission or any breach of contract or statutory duty calculated by reference to profits, income, production or accruals or loss of such profits, income, production or accruals by reference to accrual of such costs, claims, damages or expenses on a time basis.

## **REFURBISHMENT**

If the Buyer wishes the Company to refurbish a mechanical item the Buyer will (at the Buyer's cost) return the mechanical item to the Company.

The Company will provide a quotation for the refurbishment of the mechanical item. If the Company provides an estimate without having seen the mechanical item then the Company

will not be bound by this estimate and shall provide a quotation once it has seen the mechanical item but prior to carrying out the work.

In the case of parts added to a mechanical item during refurbishment the Company warrants that subject to the normal limits of industrial quality the parts shall at the time of delivery and for twelve months after that date be of satisfactory quality.

The Buyer agrees to indemnify and keep the Company indemnified from and against all costs, expenses, liabilities, injuries, losses, damages, claims, demands or legal costs (on a full indemnity basis) and judgements which the Company incurs or suffers as a consequence of a fault in a mechanical item supplied by the Buyer to the Company for refurbishment.

#### **EXPORT TERMS**

The Buyer shall forthwith obtain all imports licences (or equivalent authorisation) necessary in respect of the importation of the Goods into the country to which they are to be consigned and shall promptly inform the Company of their grant.

Unless otherwise specified, delivery shall be effected FCA (as defined in the Incoterms) by the Company delivering the Goods into the charge of the carrier named by the buyer (but the Company shall not be required to give the Buyer any notice relating to insurance) and the Goods shall at that time be deemed to be delivered in accordance with the contract.

The Company shall not be responsible for any loss or damage to the Goods after the same have been delivered.

The Buyer shall be responsible for arranging for testing and inspection of the goods at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment or in respect of any damage during transit.

Unless otherwise specified by the Company in writing, all orders accepted by the Company will specify that the price is FCA. Unless otherwise specified by the Company in writing, all prices

quoted are exclusive of VAT, customs duties, import services. All prices quoted are subject to variations without notice.

Unless otherwise agreed the price for the Goods to be supplied by the Company is specified in the tender document and is payable in cash in sterling.

In relation to prices specified in a currency other than sterling (“the Quoted Currency”), and unless otherwise agreed in writing by the Company, it shall have the right at any time or times when the rate in the London Foreign Exchange market for the Quoted Currency in terms of sterling stands more than 5% higher than such rate on the date when the price was quoted, to raise any such prices by a percentage not exceeding the percentage rise in such rate for Quoted Currency and shall forthwith notify the buyer of such increase price which shall then be substituted for the original price.

Payment of all amounts due to the Company shall be made by irrevocable sight letter of credit opened by the Buyer in favour of the Company and confirmed by a bank in the United Kingdom acceptable to the Company or if the Company has agreed in writing on or before acceptance of the Buyer’s order to waive this requirement by acceptance by the buyer and delivery to the Company of a bill of exchange drawn on the Buyer payable 30 days after sight to the order of the Company at such branch of Lloyds Bank Plc in England as may be specified in the bill of exchange.

The Buyer undertakes not to offer the Goods for resale in the United Kingdom or any other country notified by the Company to the Buyer at or before the time the Buyer’s order is placed or to sell the Goods to any person if the Buyer knows or has reason to believe that person intends to resell the Goods in any such country.

## **REPRESENTATIONS**

No statement description information warranty condition or recommendation contained in any catalogue price list advertisement or communication or made verbally by any of the agents or employees of the Company shall be construed to enlarge, vary or override in any way any of these conditions.



## **FORCE MAJEURE**

The Company shall be entitled to delay or cancel delivery or to reduce the amount delivered if it is prevented from or hindered in or delayed in manufacturing obtaining or delivering the Goods by normal route or means of delivery through any circumstances beyond its control including but not limited to strikes, lock-outs, accidents, war, fire, reduction in or unavailability of power at manufacturing plant, breakdown of plant or machinery or shortage or unavailability of raw materials from normal source of supply.

## **HEADINGS**

The headings in these conditions are intended for reference only and shall not affect their construction.

## **PROPER LAW**

The Contract shall in all respects be governed by English Law and shall be deemed to have been made in England and the Buyer and the Company agree to submit to the non-exclusive jurisdiction of the English Courts.

## **LIMITATION OF LIABILITY**

By way of deed, in relation to the recommendations provided to the client as part of our service.

The buyer agrees that:

### **1. Recommendations**

- 1.1 The recommendations we provide as part of our service are to be considered as recommendations only and do not constitute advice in any way.
- 1.2 You are not required to action any of our recommendations.
- 1.3 Any actions or inaction implemented as a result of, or in connection with, our recommendations shall be at your sole risk.
- 1.4 Reliance upon our recommendations shall be at your sole risk.

## **2. Liability**

2.1 Nothing in this Deed shall limit or exclude any rights you hold under statute, for:

- a. death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;
- b. fraud or fraudulent misrepresentation; or
- c. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

2.2 Additionally, we shall not be liable to you or any other party involved in this or any other dispute, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the contract for:

- a. loss of profits;
- b. loss of sales or business;
- c. loss of agreements or contracts;
- d. loss of anticipated savings;
- e. loss of use or corruption of software, data or information;
- f. loss of or damage to goodwill; or
- g. any indirect or consequential loss.

## **3. General**

3.1 This letter and any disputes or claims (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this letter or its subject matter or formation.

3.2 The Company, its Directors & Employees shall be indemnified against any & all legal costs by the client company(s), pertaining to any & all legal disputes between client company(s) & any other party.