



Heinrich Georg (UK) Ltd.

Registered in England and Wales No. 2174170

VAT Reg No. GB 485 8688 69

## Heinrich Georg UK Ltd. Conditions of Sale

1. **Interpretation.** The following definitions apply in these Conditions.  
**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.  
**Conditions:** these terms and conditions as amended from time to time in accordance with clause 16.7.  
**Contract:** the contract between Georg and the Customer for the supply of Goods and/or Services in accordance with these Conditions.  
**Deliverables:** the deliverables set out in the Order or resulting from the supply of the Services, produced by Georg for the Customer.  
**Goods:** the goods (or any part of them) set out in the Order.  
**Goods Specification:** any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and Georg and set out in the Order.  
**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.  
**Order:** the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form acknowledging Georg's quotation.  
**Services:** the services, including the Deliverables, supplied by Georg to the Customer as set out in the Service Specification.  
**Service Specification:** the description or specification for the Services provided in writing by Georg to the Customer and set out in the Order.

### 1.1 Interpretation:

### 2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services in accordance with these Conditions. The Order shall only be deemed to be accepted when Georg issues written acceptance of the Order at which point, and on which date the Contract shall come into existence (**Commencement Date**).
- 2.2 [Any samples, drawings, descriptive matter or advertising issued by Georg and any illustrations or descriptions of the Services contained in Georg's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract nor have any contractual force.]
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing and of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

### 3. Goods

- 3.1 The Goods are described in the Goods Specification, but Georg reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and Georg shall notify the Customer in any such event.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify Georg against all liabilities, costs, expenses, damages and losses (including any direct,

indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Georg arising out of or in connection with any claim made against Georg for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Georg's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.

### 4. Delivery of Goods

#### 4.1 [Georg shall ensure that:

- (a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, [the contract number **OR** all relevant Customer and Georg reference numbers], the type and quantity of the Goods and special storage instructions (if any); and

- (b) it states clearly on the delivery note any requirement for the Customer to return any packaging material to Georg. The Customer shall make any such packaging materials available for collection at such times as Georg shall reasonably request. Returns of packaging materials shall be at [Georg's or the Customer's] expense.

- 4.2 Georg may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.]

- 4.3 Georg shall deliver the Goods to the Delivery Location or such other location as the parties may agree at any time after Georg notifies the Customer that the Goods are ready. In the event that the Delivery Location is Georg's premises, the Customer shall collect the Goods within 3 Business Days of Georg notifying the Customer that the Goods are ready. Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Georg shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Georg with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. If Georg fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Georg shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Georg with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

- 4.4 Delivery of the Goods shall be completed on the completion of unloading (in the event that the Delivery Location is Georg's premises) or unloading (if the Delivery Location is elsewhere) of the Goods at the Delivery Location. If the Customer fails to take or accept delivery of the Goods within 3 Business Days of Georg notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Georg's failure to comply with its obligations under the Contract in respect of the Goods delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which Georg notified the Customer that the Goods were ready and Georg shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance). If 10 Business Days after the day on which Georg notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted delivery of them, Georg may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall below the price of the Goods].



## 5. Quality of Goods

5.1 Georg warrants that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), the Goods shall (a) conform in all material respects with any applicable Goods Specification, (b) be free from material defects in design, material and workmanship and (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979). Except as provided in this clause 5, Georg shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in this clause 5.1. The terms of these Conditions shall apply to any repaired or replacement Goods supplied by Georg

5.2 Subject to clause 5.3, Georg shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full providing that the Customer gives notice in writing during the warranty period, in the case of a defect that is apparent on normal visual inspection, within 5 Business Days of delivery or in the case of a latent defect, within 5 Business Days of the latent it becoming apparent that some or all of the Goods do not comply with the warranty set out in clause 5.1, Georg is given a reasonable opportunity of examining such Goods and the Customer (if asked to do so by Georg) returns such Goods to Georg's place of business at the Customer's cost.

5.3 Georg shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2, (b) the defect arises because the Customer failed to follow Georg's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice, (c) the defect arises as a result of Georg following any drawing, design or Goods Specification supplied by the Customer, (d) the Customer alters or repairs such Goods without the written consent of Georg, (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions or (f) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

## 6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until Georg receives payment in full (in cash or cleared funds) for the Goods and any other goods that Georg has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

6.3 Until title to the Goods has passed to the Customer, the Customer shall store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Georg's property and maintain the Goods in satisfactory condition, keep them insured against all risks for their full price on Georg's behalf from the date of delivery and shall not remove, deface or obscure any identifying mark or packaging on or relating to the Goods. The Customer shall give Georg such information relating to the Goods as Georg may require from time to time and shall notify Georg immediately if it becomes subject to any of the events listed in **Error! Bookmark not defined.13.1(b)-(d)**. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in **Error! Bookmark not defined.13.1(b)-(d)**, then, without limiting any other right or remedy Georg may have, Georg may at any time require the Customer to deliver up the Goods and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 7. Supply of Services

7.1 Georg shall supply the Services to the Customer in accordance with the Service Specification in all material respects and warrants to the Customer that the Services will be provided using reasonable care and skill. Georg reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and Georg shall notify the Customer in any such event.

7.2 Georg shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

## 8. Customer's obligations

8.1 The Customer shall (a) ensure that the terms of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate and provide Georg with such information and materials as Georg may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects, (b) co-operate with Georg in all matters relating to the Services and comply with any additional obligations as set out in the Service Specification and the Goods Specification, (c)

prepare the Customer's premises for the supply of the Services, provide Georg, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Georg to provide the Services and keep all materials, equipment, documents and other property of Georg (**Georg Materials**) at the Customer's premises in safe custody at its own risk, maintain Georg Materials in good condition until returned to Georg, and not dispose of or use Georg Materials other than in accordance with Georg's written instructions or authorisation and (d) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start and comply with all applicable laws, including health and safety laws.

8.2 If Georg's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**), without limiting or affecting any other right or remedy available to it, Georg shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Georg's performance of any of its obligations, Georg shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Georg's failure or delay to perform any of its obligations as set out in this clause 8.2 and the Customer shall reimburse Georg on written demand for any costs or losses sustained or incurred by Georg arising directly or indirectly from the Customer Default.

## 9. Charges and payment

9.1 The price for Goods shall be the price set out in the Order (or as otherwise agreed between the parties from time to time) and shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods (which shall be invoiced to the Customer) unless provided for in the Order. The charges for Services shall be as set out in the Order (or as otherwise agreed between the parties from time to time).

9.2 Georg reserves the right to increase the price of the Goods or the Services, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods or the Services to Georg that is due to any request by the Customer to change the delivery date(s), quantities or types of Goods or the scope of the Services ordered, or the Goods Specification or Service Specification or any delay caused by any instructions of the Customer in respect of the Goods or the Services or failure of the Customer to give Georg adequate or accurate information or instructions in respect of the Goods or the Services.

9.3 In respect of Goods, Georg shall invoice the Customer on or at any time after completion of delivery. In respect of Services, Georg shall invoice the Customer on completion of the Services monthly in arrears. The Customer shall pay each invoice submitted by Georg in full and in cleared funds to a bank account nominated in writing by Georg by the 30<sup>th</sup> of the month following the month of the invoice and time for payment shall be of the essence of the Contract and all amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). If the Customer fails to make a payment due to Georg under the Contract by the due date, then, without limiting Georg's remedies under clause 13 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this **Error! Bookmark not defined.9.3** will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

9.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Georg to the Customer, the Customer shall, on receipt of a valid VAT invoice from Georg, pay to Georg such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

10. **Intellectual property rights.** All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by Georg and the Customer grants Georg a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to Georg for the term

of the Contract for the purpose of providing the Goods or the Services to the Customer.

### 11. Confidentiality

- 11.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.2.
- 11.2 Each party may disclose the other party's confidential information to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement (each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 11) or as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

### 12. Limitation of liability. THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

- 12.1 Georg has obtained insurance cover in respect of its own legal liability for individual claims not exceeding [AMOUNT] per claim. The limits and exclusions in this clause reflect the insurance cover Georg has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 12.2 The restrictions on liability in this clause 12 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise and Georg shall not be liable for loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information, loss of or damage to goodwill or indirect or consequential loss. Nothing in the Contract limits any liability which cannot legally be limited, including liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation, breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession), but Georg has given commitments as to compliance of the Goods and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.3 Subject to **Error! Bookmark not defined.**12.2, Georg's total liability to the Customer in respect of all breaches of duty occurring within any contract year shall not exceed the greater of [MINIMUM AMOUNT] and the total charges means all sums paid by the Customer and all sums payable under the Contract in respect of goods and services actually supplied by Georg, whether or not invoiced to the Customer and this clause 12 shall survive termination of the Contract.

### 13. Termination

- 13.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 10 Business Days after receipt of notice in writing to do so, (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business, (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business or (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 13.2 Without affecting any other right or remedy available to it, Georg may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment or there is a change of Control of the Customer.
- 13.3 Without affecting any other right or remedy available to it, Georg may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and Georg if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in **Error! Bookmark not**

**defined.**13.1(b)-(d), or Georg reasonably believes that the Customer is about to become subject to any of them.

### 14. Consequences of termination

- 14.1 On termination of the Contract the Customer shall immediately pay to Georg all of Georg's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, Georg shall submit an invoice, which shall be payable by the Customer immediately on receipt and the Customer shall return all of Georg Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then Georg may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 14.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry and any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.
15. **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a Force Majeure Event). In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for [4] weeks, the party not affected may terminate this agreement by giving 10 Business Days' written notice to the affected party.
16. **General**
- 16.1 **Assignment and other dealings.** Georg may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Georg.
- 16.2 **Notices.** Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case) sent by email to the addresses used between the parties in correspondence relating to the Contract. Any notice or communication shall be deemed to have been received (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service or (c) if sent by email, at the time of transmission; providing in each case if this time falls outside business hours (9.00am to 5.00pm Monday to Friday on a day that is not a public holiday) in the place of receipt, shall be deemed to have been received when business hours resume.
- 16.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 16.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 16.4 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.5 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter and each party acknowledges that in entering into the Contract it does not rely on, and 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. Each party agrees that it shall have no claim for innocent or negligent



misrepresentation based on any statement in the Contract, but nothing in this clause shall limit or exclude any liability for fraud.

16.6 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any

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

16.8 **Governing law.** The Contract and any dispute or claim (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.

16.9 **Jurisdiction.** Each party irrevocably agrees that 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 the Contract or its subject matter or formation.

