

## MACPHIE LIMITED

### STANDARD TERMS AND CONDITIONS OF SALE

#### 1 DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions:

**“Bespoke Goods”** means those goods which are manufactured or customised exclusively for the Customer by the Supplier or any goods packed into Customer branded packaging.

**“Business Day”** means a day, other than a Saturday or Sunday, when banks in Scotland are open for business.

**“Cancellation Charge”** means a fee to be paid by the Customer to the Supplier to cover the expenses and costs incurred by the Supplier in fulfilling the Order until such time as the cancellation request was received by it, as notified in writing by the Supplier to the Customer.

**“Conditions”** means the terms and conditions set out in this document as amended from time to time in accordance with clause 12.5.

**“Contract”** means the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

**“Core Range”** means the Supplier’s published list of core products as amended and updated from time to time and which may be made available to the Customer on request.

**“Credit Limit”** means the maximum amount of money that is permitted to be outstanding on the Customer’s account at any one time calculated in line with the results of any credit reference check conducted by the Supplier as notified to the Customer from time to time.

**“Customer”** means the person or firm who purchases the Goods from the Supplier.

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**“Data Protection Legislation”** means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

**“Delivery Location”** has the meaning given in clause 4.2.

**“Force Majeure Event”** means an event, circumstance or cause beyond a party’s reasonable control.

**“Goods”** means the Supplier Goods and/or the Bespoke Goods (or any part of them) as set out in the Order.

**“Group”** means in relation to a company, that company, any subsidiary or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a member of the Group.

**“Order”** the Customer’s order for the Goods: (i) as set out in the Customer’s purchase order form, the Customer’s written acceptance of the Supplier’s quotation, or (ii) as otherwise set out in any written contract agreed between the parties, as the case may be.

**“Specification”** means any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier, and which may be subject to amendment on notification to the Customer in accordance with clause 3.3.

**“Supplier”** means Macphie Limited (registered in Scotland having its registered address as Glenbervie, Stonehaven, AB39 3YG and company number SC031780) or any Group company as the case may be and as set out in the Order.

**“Supplier Goods”** means those non-customised goods from the Supplier’s Core Range in Supplier branded packaging.

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**“UK Data Protection Legislation”** means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive (2002/58/EC) (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

## 1.2 Interpretation:

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a party includes its successors and permitted assignees.

1.2.3 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.5 A reference to **writing** or **written** includes fax and email.

## 2 BASIS OF CONTRACT

2.1 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.

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

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- 2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence. The Supplier may accept or decline Orders at its discretion.
- 2.4 It shall be the Customer's responsibility to check that the details of the Order are correctly set out in the Supplier's written acceptance of the Order. Any errors or omissions in the Supplier's written acceptance shall be brought to the Supplier's attention immediately by the Customer in order that the Supplier may issue a correct written acceptance of the Order.
- 2.5 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.6 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.
- 2.7 If after submitting an Order, the Customer cancels that order in whole or in part then the Customer shall pay the Supplier the Cancellation Charge.
- 2.8 The Supplier may at its sole discretion refuse to accept any Order from the Customer where the Price of the Goods under the Order combined with the total value of sums payable by the Customer under any outstanding invoices in accordance with this Agreement exceeds the Customer's Credit Limit. Where the Customer's Order would exceed this value combined with any sums payable under any outstanding invoices it may be a condition of accepting the Order that all sums due under such outstanding invoices are settled in full in advance.

### 3 **GOODS**

- 3.1 The Goods are described in the Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs,

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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 the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights or any other rights arising out of or in connection with the Supplier's use of the Specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements or to reflect increases in cost outside of the Supplier's control resulting in the specification no longer being commercially viable.

3.4 The Supplier reserves the right to impose a minimum purchase obligation on the Customer in relation to the Goods as set out from time to time in the Order.

## 4 DELIVERY

4.1 The Supplier shall ensure that:

4.1.1 each delivery of the Goods is accompanied by a delivery note that shows the quantity of the Goods (including the name and product code of the Goods, where applicable), and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.1.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense. If the Customer fails to return any packaging materials as requested by the Supplier, the Supplier shall be entitled to charge the Customer for the cost of replacing such packaging materials.

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- 4.2 Where the Customer has requested delivery of the Goods, the Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.
- 4.3 Where the Customer has agreed to collect the Goods, the Customer shall collect the Goods from the Supplier's premises at [Glenbervie, Stonehaven, AB39 3YG] or such other location as may be advised by the Supplier prior to delivery (**Collection Location**) within [three] Business Days of the Supplier notifying the Customer that the Goods are ready.
- 4.4 Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
- 4.5 If, upon receiving and inspecting the Goods at the Delivery Location or Collection Location, the Customer considers that the Goods do not conform to the Order, it shall notify the Supplier of the same as soon as possible and in any event within twenty-four hours of delivery or collection. If the non-conformity relates to quantity, the Supplier shall have a reasonable opportunity to make up any shortfall or correct any surplus in the Goods.
- Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force
- 4.6 Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.7 The Supplier 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 the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.8 If the Customer fails to take delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract, the Supplier may at its discretion:

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4.8.1 store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance); or

4.8.2 treat the Order as having been cancelled by the Customer and 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.

4.9 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## 5 **QUALITY**

5.1 In relation to the Supplier Goods only, the Supplier warrants that on delivery the Supplier Goods shall:

5.1.1 conform with their description and any applicable Specification; and

5.1.2 be free from material defects in design, material and workmanship.

5.2 Subject to clause 5.3, if:

5.2.1 the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Supplier Goods do not comply with the warranty set out in clause 5.1;

5.2.2 the Customer (if asked to do so by the Supplier) returns such Supplier Goods to the Supplier's place of business at the Supplier's cost; and

5.2.3 the Supplier is given a reasonable opportunity of examining such Supplier Goods and following such inspection agrees (acting reasonably) that the Goods in question do not comply with the warranty, the Supplier shall, at its option, repair or replace the defective Supplier Goods, or refund the price of the defective Goods in full.

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- 5.4 The Supplier shall not be liable for the Supplier Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:
- 5.4.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;
  - 5.4.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
  - 5.4.3 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - 5.4.4 the Goods differ from their description in the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.6 In relation to the Bespoke Goods, the Supplier makes no warranty or representation of any kind as to the quality or fitness of the Bespoke Goods for any particular purpose, it being the Customer's responsibility to ensure the description provided by the Customer for the Bespoke Goods is suitable for the purpose for which the Bespoke Goods are to be used.
- 5.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.8 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 6 PRODUCT RECALL**
- 6.1 If the Customer is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods from the market ("**Recall Notice**")

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it shall immediately notify the Supplier in writing enclosing a copy of the Recall Notice.

6.2 Unless required by law, the Customer may not undertake any recall or withdrawal without the written permission of the Supplier and only then in strict compliance with the Supplier's instructions as to the process of implementing the withdrawal.

6.3 The Customer shall:

6.3.1 take such action, institute such proceedings and give such information and assistance as the Supplier may reasonably request to dispute, resist, appeal, compromise, defend, remedy or mitigate the matter; and

6.3.2 in connection with any proceedings related to the matter (other than against the Supplier), use professional advisers nominated by the Supplier and, if the Supplier so requests, allow the Supplier the exclusive conduct of the proceedings,

in each case on the basis that the Supplier shall reimburse the Customer for all reasonable costs incurred as a result of any request or nomination by the Supplier.

6.4 The Customer shall indemnify and hold harmless the Supplier from and 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 the Supplier in connection with a Recall Notice affecting the Bespoke Goods.

## 7 **TITLE AND RISK**

7.1 The risk in the Goods shall pass to the Customer on completion of delivery [or collection as the case may be].

7.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for all balances outstanding on all the Goods delivered.

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Until title to the Goods has passed to the Customer, the Customer shall:

- 7.2.1 where reasonably practicable, store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- 7.2.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 7.2.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 7.2.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 10.1.2 to clause 10.1.6; and
- 7.2.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

## 8 PRICE AND PAYMENT

- 8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of delivery (if any).
- 8.2 The Supplier may, by giving notice to the Customer at any time increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

- 8.2.1 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

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8.2.2 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

8.3 The price of the Goods:

8.3.1 excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

8.3.2 excludes the costs and charges of packaging, insurance and transport of the Goods, which may be invoiced to the Customer.

8.4 Unless otherwise set out in writing by the Supplier, the Supplier may invoice the Customer for the Goods on or at any time after the completion of delivery.

8.5 Unless otherwise set out in writing by the Supplier, the Customer shall ensure that the Supplier is in receipt of the sums due under each invoice submitted by the Supplier:

8.5.1 within 30 days of the date of the invoice; and

8.5.2 in full and in cleared funds, to a bank account nominated in writing by the Supplier.

8.6 Time for payment shall be of the essence of the Contract.

8.7 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 10 (Termination), the Customer shall, on demand from the Supplier, pay interest at the rate of 4% above the base rate of the Bank of Scotland from time to time on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment.

8.8 Subject to clause 0, 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).

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8.9 If the Customer disputes any invoice or other statement of monies due, the Customer shall immediately, and in any event within 7 days from the date of the invoice, notify the Supplier in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. Both parties shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within 14 days of the Customer giving notice to the Supplier, the dispute shall be resolved in accordance with 12.2. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in this clause 8.

## 9 **LIMITATION OF LIABILITY**

9.1 The restrictions on liability in this clause 9 apply to every liability arising under or in connection with the Contract including liability in contract, delict, under statute or otherwise (including liability arising from negligence).

9.2 Nothing in the Contract limits any liability of the Supplier which cannot legally be limited, including liability for:

9.2.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

9.2.2 fraud or fraudulent misrepresentation; or

9.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979.

9.3 Subject to clause 9.2, the Supplier's total liability to the Customer shall not exceed the price of the Goods as set out in the relevant Order or any contract agreed between the parties.

9.4 Subject to clause 9.2, the following types of loss are wholly excluded:

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9.4.1 loss of profits;

9.4.2 loss of sales or business;

loss of agreements or contracts;

9.4.3 loss of anticipated savings;

9.4.4 loss of use or corruption of software, data or information;

9.4.5 loss of or damage to goodwill; and

9.4.6 indirect or consequential loss.

9.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without liability on the part of the Supplier.

9.6 This clause 9 shall survive termination of the Contract.

## 10 TERMINATION

10.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

10.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen (14) days of that party being notified in writing to do so;

10.1.2 the Customer 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

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appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; the Customer 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 or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986 or (being an individual) is deemed either unable to pay its debts or as having no

- 10.1.3 reasonable prospect of so doing, in either case, within the meaning of section 268 of the IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- 10.1.4 the Customer (being an individual) is the subject of a bankruptcy petition, application or order;
- 10.1.5 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 10.1.6 the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

10.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 10.1.2 to clause 10.1.6, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

10.3 Without limiting its other rights or remedies, the Supplier 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.

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- 10.5 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at 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.

- 10.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## 11 **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 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 thirty (30) days, the party not affected may terminate this agreement by giving seven (7) days' written notice to the affected party.

## 12 **GENERAL**

### 12.1 **Assignment and other dealings.**

12.1.1 The Supplier may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

12.1.2 The Customer may not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract

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12.1.3 without the prior written consent of the Supplier.

## 12.2 Dispute Resolution Procedure

12.2.1 If any dispute arises between the parties out of, or in connection with, this Contract, the matter shall be referred to senior representatives of each party who shall use their reasonable endeavours to resolve it.

12.2.2 If the dispute is not resolved within 14 days of the referral being made under clause 12.2.1 the parties may resolve the matter through mediation in accordance with the London Court of International Arbitration Mediation Rules.

12.2.3 Either party may issue formal legal proceedings or commence arbitration at any time whether or not the steps referred to in clauses 12.2.1 and 12.2.2 have been completed.

### Confidentiality.

12.2.4 Each party undertakes that it shall not at any time during the Contract and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.5.

12.2.5 Each party may disclose the other party's confidential information:

- (a) 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 the Contract. 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 12.2.5; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

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12.2.6 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

### 12.3 Data Protection

Each party shall comply with its respective obligations under Data Protection Legislation in carrying out its obligations under this Contract.

### 12.4 Entire agreement.

12.4.1 This 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.

12.4.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

12.5 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.6 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12.7 **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 this agreement. If any provision of the Contract is deemed deleted

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under this clause

12.7 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## 12.8 Notices.

12.8.1 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).

12.8.2 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 Business Day after posting or at the time recorded by the delivery service.

12.8.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## 12.9 Third party rights.

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contract (Third Party Rights) (Scotland) Act 2017 for any third party to enforce or otherwise invoke any term of the Contract.

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**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 Scotland.

12.10 **Jurisdiction.** Each party irrevocably agrees that the Scottish courts shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

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