TERMS AND CONDITIONS

1 DEFINITION

In these Conditions:

"Certification" means issuing certificates under standard forms of contract including, but not limited to interim valuation certificates, extension of time certificates, practical completion certificates, certificates for making good defects at the conclusion of the defects liability period and a final certificate;

"Company" means A.B.G. Limited (registered company number 02274509);

"Conditions" means the terms and conditions set out herein, any terms or conditions expressly stated in or on, or expressly incorporated by reference into, the Company's order acknowledgement and the Customer hereby acknowledges that it has not relied on any statement, warranty or representation as to the use, function or state of Deliverables including but not limited to promotional or trade literature, drawings, published performance figures and design suggestions emanating from the Company, other than as specifically contained in a written quotation or order acknowledgement;

"Customer" means the person, partnership, company or other body with whom the Company contracts for the supply of Deliverables;

“Deliverables” means Products, Systems and Services;

"Designs" means drawings, calculations and instructions prepared by the Company to be used by the Customer for construction including the design, materials specification and full working drawings based on a design brief agreed between the Company and the Customer’s representative;

"Ex Works" means the place where delivery of Products shall have been completed by the Company being either (i) at the premises of A.B.G. Limited or (ii) third party warehouses nominated by the Company;

"Inspection" means visiting a site to review the Works by observing and monitoring quality, progress and adequacy of construction means and work methods;

"Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other

intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Owner" means the person or company who owns the Works or a person or company authorised to represent the interests of the Owner including, but not limited to, the consulting engineer, geotechnical consultant or construction contractor;

"Products" means all geosynthetics and related construction works materials provided to the Customer by or on behalf of the Company, whether manufactured by entities directly related to the Company or third party suppliers;

"Services" means application, installation, design or construction advice, installation training, Solution Suggestion or Designs provided by the Company to the Customer (directly or through other project stakeholders) or its representatives that supports the specification, supply and/or installation of Products and/or Systems;

"Site Visit" means attendance at the project construction site by the Company or its employees to provide technical or practical comments or advice on specified aspects of the Works relating only to the installation of Products and/or Systems;

"Solution Suggestion" means the Company's preliminary advice following a Customer or Owner query regarding the potential application of Products and/or Systems in the Works and which is prepared using the Company's design methods but is based on limited information and is not intended to be used for construction;

"Supervision" means assisting in the planning, organizing, directing, and coordinating of construction and performance of related duties as required with the ability and authority to direct and coordinate the construction of works in accordance with design and specification requirements;

"System Components" means the individual products manufactured by or on behalf of the Company, which are integrated in accordance with the System and installation methods to comprise the System;

"Systems" means the design and integration of Products and third party products or component products of the Company, combined with application and installation method; and

"Works" means the Owner's overall project in which the Company is engaged to supply Deliverables in respect of part of the civil/buildings works component.

2 CONTRACTS

2.1 Any quotation, estimate or submission given by the Company in respect of any of its Deliverables is an invitation to the Customer to make an offer only and no order of the Customer placed with the Company in pursuance of a quotation or estimate or otherwise shall be binding on the Company unless and until it is accepted by the Company in writing

2.2 A contract will be deemed to have been formed if the Customer accepts the Quotation (either expressly or by giving an Order which will be deemed to be an Order on the terms of the Quotation and/or the Order Acknowledgement and not otherwise) in relation to one or more quantities of the Deliverables to which the Quotation refers.

2.3 Any contract howsoever made, between the Company and the Customer ("Contract") shall incorporate and be subject to these Conditions and receipt of any of Deliverables by the Customer shall be deemed to be conclusive proof that the Customer has accepted these Conditions in the absence of any express or other implied acceptance of these Conditions by the Customer.

2.4 The Customer accepts that these Conditions shall govern relations between the Company and the Customer in relation to Deliverables to the exclusion of any other terms and conditions, warranties and representations, whether written or oral, expressed or implied, even if contained in any of the Customer's documents which purport to provide that the Customer's own terms and conditions shall prevail. No employee of the Company other than a director is authorised to make any change to these Conditions.

2.5 If there is any conflict or inconsistency between the provisions in these Conditions and the provisions of an Order, the provisions of these Conditions prevail to the extent of such conflict or inconsistency.

2.6 The Customer acknowledges and agrees that the Company only provides Services to support the use and application of Products and Systems and no information, advice, or suggestion made by the Company to Customer shall be construed by the Customer as the provision by the Company of Services.

2.7 Notwithstanding that the Company may have supplied the Customer with sample(s) of Products and/or Systems prior to the date of the Contract, no sale of Products and/or Systems by the Company pursuant to any Contract shall be considered as a sale by sample.

2.8 In the event that Products are deemed "construction products" for the purposes of Construction Products Regulations 2016 the Company shall, on request, provide the Customer with a declaration of performance (DOP) for particular Products with respect to Customer requests for documentation relating to product quality.

3 **PRICES**

3.1 Unless otherwise stated in a written quotation, order acknowledgement, invoice or on the Company's current price list:

3.1.1 the price of Deliverables is exclusive of value added tax (**"VAT"**), which will be charged at the applicable rate; and

3.1.2 the price of the Products and Systems is inclusive of the cost of the Services.

3.2 If after the date of the Company's acceptance of an order any increase occurs in the costs necessarily incurred by the Company in supplying Products including but not limited to products, materials, labour, transport or other items including overheads, which the Company has to pay or incur in the performance of its obligations hereunder (including in circumstances where the Customer requires the Products to be supplied later or over a longer period than indicated upon placing the Order), then the amount of any increase in such costs shall be added to the Contract price and shall be payable by the Customer at the same time as the Contract price.

3.3 Where the price of Deliverables has been stated in the Company's quotation or order acknowledgement based on stated production runs and/or specific delivery periods, the Company reserves the right to vary the price for Deliverables should the Customer order different quantities from those stated and/or require delivery over a different period.

3.4 The cost (determined by the Company acting reasonably) of any variation or modification in the design, specification, materials or drawings of Products and/or Systems, or any development thereof requested by the Customer after the date of the Company's acceptance of the order, shall, if such variation or modifications are accepted by the Company, be borne by the Customer and payable at the same time as the Contract price. Third party costs and additional expenses will be charged in accordance with the third parties' hourly rates.

4 **PAYMENT**

4.1 Unless otherwise stated in writing, payment of the Contract price for Deliverables shall be due, by electronic transfer not later than the last day of the month following the month in which Products, Designs and Systems are delivered, and if the Contract provides for delivery by instalments, each instalment shall constitute a separate contract in respect of which invoices may be rendered. No cancellation or termination of any one Contract shall entitle the Customer to repudiate or cancel any other Contract or instalment. Payment in full for Deliverables despatched shall be made notwithstanding that such Deliverables do not include all Products set out in the Contract and notwithstanding that title to Products may not have passed to the Customer.

4.2 Time for payment shall be of the essence and any failure by the Customer to make payment to the Company on the due date shall entitle the Company, at its option and without prejudice to any other of its rights, to suspend delivery of any outstanding Products and Services pending payment and/or treat the Contract as repudiated.

4.3 Unless otherwise agreed in writing, the Customer shall not be entitled to set off against any monies due to the Company under any Contract any amount claimed by or due to the Customer from the Company, whether pursuant to a Contract or on any other account whatsoever.

4.4 The Company shall be entitled to charge interest on all overdue amounts at the rate of 2% (per cent) over the base rate for the time being of the Bank of England (the full sum of such interest accruing upon the first day overdue until actual payment in full), irrespective of whether payment has been formally demanded or judgment entered. All legal costs, charges and expenses incurred by the Company in recovering any debts shall be paid by the Customer on a full indemnity basis.

4.5 Should the Customer not pay within the Company's terms, the Company can engage an outside agency, to assist with collection, and the Customer agrees to pay the agency's collection fees in addition to any interest, together with any charges specified in the 'Late Payment of Commercial Debts (Interest) Act 1998'.

4.6 Any credit given to the Customer may be withdrawn or limited at any time on such notice as the Company may think fit and consequently the Company may refuse to deliver all or part of the Deliverables.

5 DELIVERY AND RISK

5.1 Though the Company will use all reasonable endeavours to comply with any date or dates for despatch or delivery of Products, as stated in the Contract or communicated to the Customer, unless the Company otherwise expressly provides in writing, such date or dates shall constitute only statements of expectation and shall not be binding and, accordingly, any failure by the Company to despatch Products by such date or dates shall not be a breach or repudiation of the Contract and the Company shall not be liable for any loss or damage of whatsoever kind suffered by the Customer as a result of such failure.

5.2 If no time for delivery is specified in the Contract, the Customer shall be bound to accept Products when the same are ready for delivery by the Company, but the Company shall be under no obligation to deliver the same until the expiry of a reasonable time from the date of the Contract.

5.3 When expedited delivery or completion is agreed to by the Company and it necessitates overtime or other additional costs, the Customer shall reimburse the Company for the amount of such overtime payment or other costs.

5.4 The risk in respect of all Products shall pass to the Customer at the time of delivery.

5.5 When the Contract includes transport, delivery shall be deemed to occur when the Products and Systems arrive at the Customer's place of business or at the destination specified in the delivery instructions. Where the Contract does not include transport, or if no place for delivery is specified or agreed, delivery terms shall be Ex Works (plus loading) and shall be deemed to occur 14 days from the date of notice from the Company that Products are ready for collection or upon collection, whichever is the earlier. Unless otherwise agreed in writing, the Company shall, on behalf of the Customer and at the Customer's expense, arrange for the carriage of Products and the carrier selected by the Company shall be the agent of the Customer. The Customer undertakes to provide a safe and convenient route for the vehicles to pass. The driver of any vehicle has the right to refuse to deliver over a route which in his opinion is not safe or convenient for the vehicle to pass and such refusal shall not constitute a breach of contract by the Company. The Customer shall indemnify us against any loss or damage sustained as a result of any failure to provide such a route.

5.6 The Customer at his own expense shall be responsible for the proper unloading of the Products (which shall be completed expeditiously upon arrival of the vehicle on site) stacking, storing and protection of all such materials and any cartage necessary after unloading unless stated otherwise in the Order. We do not accept any liability for any damage to the Products while they are being unloaded.

5.7 If the Customer refuses to take delivery of Products and/or Systems, the Company may charge for return transport. Any failure by the Customer to take delivery of Products and/or Systems shall not relieve the Customer of its obligation to pay the Contract price in respect thereof.

5.8 Where damage to or loss of Products occurs before delivery thereof to the Customer, the Company undertakes (subject as provided below) to replace free of charge any Products so damaged or lost. The foregoing undertaking of the Company is conditional upon:

5.8.1 the Customer giving written notice of such damage or loss with reasonable particulars thereof to the Company within three days of the receipt of Products or, in the case of total loss, within ten days of receipt of the Company's invoice or the carrier's delivery advice or other notification; and

5.8.2 the Customer allowing the Company to inspect any damaged Products and, if requested by the Company and at the Company's expense, returning any

damaged Products to the Company's works within five days of receipt of such request.

5.9 If the Company delivers to the Customer a quantity of Products of up to 5% more or less than the quantity ordered by the Customer, the Customer shall not be entitled to object to or reject Products or any of them by reason of the surplus or shortfall and shall pay for such Products at the pro rata Contract price.

5.10 Save as expressly provided in this Condition 5 the Company shall not have any liability whatsoever for or in connection with any damage to or loss of Products in transit to the contracted place of delivery.

6 STORAGE

6.1 In the event of the Customer:

6.1.1 notifying the Company of its inability to accept delivery of any Products; or

6.1.2 failing to give adequate delivery instructions when required to do so; or

6.1.3 failing to collect Products sold Ex-works; or

6.1.4 requesting postponement of delivery which is agreed to by the Company,

Products will be stored at the sole risk and expense of the Customer as from the time of the relevant notification, failure or agreement and the Company shall make a reasonable charge for storage thereof, provided that, if the Customer fails to collect or accept delivery of Products or any part thereof within three months of written notification from the Company that Products are ready for collection or delivery, the Company shall be entitled (without prejudice to its other remedies under the Contract) to sell or, at its option, destroy Products and to apply the proceeds of sale thereof if sold towards payment of all sums due to the Company under any Contract.

7 TITLE

7.1 Notwithstanding that the risk in Products passes to the Customer in accordance with Condition 5.4, sole and absolute ownership in the Products shall remain vested in the Company until whichever shall be the first to occur of the following:

7.1.1 payment being made to the Company in full for Products and Systems (together with any applicable VAT and any interest claimed) and no other amounts being outstanding from the Customer to the Company under any Contract; or

7.1.2 the Customer selling Products in the ordinary course of business (in which case ownership shall only be deemed to have passed to the Customer upon delivery of Products to the Customer's customer).

7.2 Subject to Condition 7.5, the Customer may, at any time after delivery, use, sell or agree to sell Products delivered to the Customer in the ordinary course of business even though the amount invoiced for Products has not been paid in full.

7.3 The Customer will receive and retain any money which may be paid to him pursuant to a resale agreement on trust to use so much of it as necessary then to enable him to effect full payment to us.

7.4 If the Customer is not in possession of any of the goods after their Delivery and in respect of which the Customer has entered into resale agreement (and in respect of which ownership has not passed to the Customer or to any such third party) the Customer will at the Company's request (and without prejudice to the Company's other rights) assign to the Company any debt which may be owing to the Customer in respect of such resale agreement or so much of it as may enable the Customer to effect full payment to us.

7.5 Until ownership in Products passes to the Customer:

7.5.1 the Customer shall hold Products, as bailee in a fiduciary capacity to the Company;

7.5.2 the Customer shall store Products (without charge to the Company) in a manner which makes them readily identifiable as the Company's Products and shall, upon reasonable request, promptly inform the Company of their location; and

7.5.3 the Company may at any time revoke the power of sale and use by notice to the Customer if the Customer is in default in payment of any sum whatsoever due to the Company (whether in respect of Products or any other products supplied at any time by the Company to the Customer) or (whether or not any agreed credit period has expired) if the Company has bona fide doubts as to the solvency of the Customer.

7.6 Upon determination of the Customer's power of sale and use, the Customer shall forthwith cease to use or otherwise dispose of Products and forthwith deliver to the Company, on request, any Products at the Customer's premises and/or at the site relevant to the Works or under its control that belong to the Company and the Company shall be entitled, without incurring any liability to the Customer, to enter any of the Customer's premises and/or the site relevant to the Works to inspect the stocks and to remove and resell any Products found there belonging to the Company.

7.7 The Company shall at any time be entitled to appropriate any payment made by the Customer in respect of any Deliverables supplied to the Customer by the Company in settlement of such invoices or accounts as the Company may in its absolute discretion think fit, notwithstanding any purported appropriation to the contrary by the Customer.

7.8 Nothing in this Condition 7 shall give the Customer the right to return any of the Products without the Company's prior consent in accordance with Condition 23

7.9 The rights and remedies conferred upon the Company by this Condition 7 are in addition to, and shall not in any way prejudice, limit or restrict, any other rights or remedies of the Company under these Conditions or any Contract.

8 ACCEPTANCE AND PRODUCT GUARANTEE

8.1 Without prejudice to the Company's rights under Condition 8.3, the Customer shall be deemed to have accepted Products as being in conformity with the Contract and shall be bound to pay for them unless written notice of rejection thereof is received by the Company within fourteen days of receipt or completion, as the case may be. Products accepted by the Customer cannot subsequently be returned without written confirmation from the Company in accordance with Condition 23.

8.2 If after notice of rejection has been given, the Customer deals with Deliverables in a manner that is inconsistent with such rejection or with the ownership of Products by the Company, the Customer shall be deemed to have accepted Deliverables and be bound to pay for them.

8.3 Where any Deliverables (or any part thereof) are shown, to the satisfaction of the Company, to be deemed defective by reason of failure to correspond with the Company's specification, faulty materials or workmanship or design, within a period of twelve months from the date of their original despatch or supply, (fair wear and tear excepted) the Company shall at its sole option either:

8.3.1 provide replacement Deliverables to the Customer free of charge; or

8.3.2 refund to the Customer the Contract price of such Deliverables,

provided that the Company shall accept no liability for any claims (whether under this Condition 8.3 or otherwise under these Conditions) unless:

8.3.3 the Customer notifies the Company in writing within fourteen days of becoming aware thereof; and

8.3.4 if so required by the Company, all defective Products are first returned to the Company's premises, carriage paid by the Customer (to be refunded by the Company if satisfied that Products are defective); and

8.3.5 Products have been properly and correctly stored, installed and/or used or applied in accordance with the Company's specification or instructions and under normal conditions of use prevailing in the UK; and

8.3.6 the total price for Deliverables was paid by the due date.

The liability of the Company under this Condition 8.3 shall be accepted by the Customer in substitution for and to the exclusion of any other claims for loss or damage of whatever nature (and whether direct or indirect or consequential) which the Customer has or may have (including but not limited to loss of profit or liability to third parties).

8.4 Any illustrations, weights and dimensions specified in the Company's catalogues or in any relevant drawings or documents supplied by the Company, are subject to the tolerances specified in the relevant Product's data sheet / specification (available on request from the Company), and any improvements and/or modifications to Products or their specification that may be made from time to time. The Company will use reasonable endeavours to inform the Customer of any material alterations to any standard specifications relating to Products ordered.

8.5 If the Company expressly guarantees the accuracy of any performance figures or statements relating to the Products then, in the event of Products after commissioning (if appropriate) failing to achieve and to comply with the same, the Company shall thereafter be entitled to a reasonable period and to reasonable facilities to enable it to bring the affected Products up to the guaranteed standard of performance, and the time for delivery (but without prejudice to Conditions 5.1 to 5.9) of Products shall be extended for such reasonable period.

8.6 The sale by the Company of any Deliverables under any of the Company's trade marks or names (whether registered or not) shall not confer upon the Customer any right or licence to use or apply such trade mark or trade name to any product manufactured or produced by or on behalf of the Customer from or incorporating such Deliverables.

9 SERVICES, DESIGN AND CONSTRUCTION SERVICES

9.1 The Company may at the request of the Customer provide any or all of the Services.

9.2 The Customer acknowledges and agrees that the scope of the Services is limited to the application and installation of Products and/or Systems and does not include the provision of any general civil engineering advice and design or the installation of third party products or systems. The Customer does not rely on any comment, suggestion, information or advice which does not specifically relate to Products and/or Systems.

9.3 The Customer acknowledges and agrees that the Services are provided on the basis of reasonable skill and care and not on the basis of fitness for purpose. No conduct, action,

statement or advice the Company, its employees or agents might provide the Customer from time to time shall imply or be construed by the Customer in any way as implying a fitness for purpose outcome.

9.4 Unless explicitly agreed otherwise, the Company may, at the request of the Customer, Owner or other stakeholder provide a Solution Suggestion or Design to support the use and installation of Products and/or Systems. The Customer acknowledges that a Solution Suggestion is based on limited and incomplete and unsubstantiated information and is not meant for and must not be used as the basis for constructing any part of the Works involving Products and/or Systems and that the use of a Solution Suggestion for construction is solely at the Customer's risk.

9.5 The Customer acknowledges and agrees that Designs solely relate to the application and installation of Products and/or Systems. The Customer acknowledges and agrees that Designs have been prepared based upon information and assumptions provided to the Company by the Customer and/or third parties, and on the assumption that the Products and/or Systems will be correctly installed in accordance with the Company's instructions. The Customer acknowledges and agrees that the Company cannot verify and gives no warranty, representation or undertaking in relation to the accuracy of any such Customer and/or third party information, and shall not be liable for any errors or omissions resulting from incorrect Customer and/or third party information used as the basis for Designs.

9.6 The Customer will immediately notify the Company of any changes to third party design, specification, construction or other factors that might impact Designs.

9.7 The Customer acknowledges and agrees that any software ("Software") provided or made available by the Company to the Customer is for the purpose of enabling the Customer to determine whether Products or Systems might conceptually be used in construction of the Works. The Customer uses any Software provided or made available by the Company at its own risk.

9.8 The Customer hereby indemnifies the Company for any loss or damage of any nature whatsoever caused as result of the:

9.8.1 use of Designs other than for the application and installation of Products and/or Systems;

9.8.2 the use in whole or in part of any third party design, advice, training or related services in connection with any part of the Works involving Products, Systems or Designs; and

9.8.3 use of the Solution Suggestion in the construction of the Works or any part thereof; and

9.8.4 Customer's failure to inform the Company of changes impacting Designs; and

9.8.5 Customer's use of the Software.

9.9 The Company's liability to the Customer shall be reduced to the extent that the Company proves that it would have been able to recover a contribution pursuant to the Civil Liability (Contribution) Act 1978 from one or more third parties also advising or providing goods and/or services to the Customer, on the assumption that those third parties have entered into an agreement with the Customer containing terms generally similar to these Conditions (having regard to the differing nature of their respective functions in relation to the Works).

10 CONSTRUCTION SERVICES

10.1 The Company may, at the request of the Customer, provide advice or training to the Customer, agents and/or sub-contractors before or during construction of that part of the Works relating to Deliverables.

10.2 The Customer acknowledges its obligation to adequately inform and educate itself, its agents and sub-contractors concerning installation methods, safety, risks and integration of Deliverables in the Works and risks relating to the installation of Products and/or Systems.

10.3 The Customer acknowledges and agrees that the Company does not offer and is not obliged to provide supervision, Inspection and/or Certification services of any part of the Works and that nothing shall be implied that constitutes any such service by any conduct including Site Visits, any observation of the Works or advice related thereto provided by the Company and/or any of its agents and/or sub-contractors during any Site Visit.

10.4 The Customer acknowledges and agrees that it does not rely on any verbal advice provided during any Site Visit, but may rely on written confirmation of any such advice provided by an authorised representative of the Company during or following the Site Visit.

10.5 The Customer hereby indemnifies and holds the Company harmless against any loss or damage caused as a result of:

10.5.1 the Customer acting on unconfirmed verbal advice; and

10.5.2 the Customer, its agent's or sub contractor's failure to correctly install Products and/or Systems.

11 COMPLETION

Though the Company will use all reasonable endeavours to comply with any date or dates for rendering or completion of Services as stated in the Contract or communicated to the Customer, unless the Company otherwise expressly provides in writing, such date or dates

shall constitute only statements of expectation and shall not be binding and accordingly any failure by the Company to render or complete Services by such date or dates shall not be a breach or repudiation of the Contract and the Company shall not be liable for any loss or damage of whatsoever kind suffered by the Customer as a result of such failure.

12 INTELLECTUAL PROPERTY RIGHTS

12.1 As between the Customer and the Company, all Intellectual Property Rights and all other rights in Deliverables shall be owned by the Company. Such Intellectual Property Rights in Deliverables may not be reproduced or disclosed to any third party in whole or in part without the prior written permission of the Company.

12.2 Such Intellectual Property Rights in Deliverables may be used by the Customer for the purpose of receiving and using the Services and the Deliverables only. The Customer shall not sub-license, assign or otherwise transfer the rights granted pursuant to this Condition 12.2.

13 CONFIDENTIALITY

13.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Company, its employees, agents, consultants or subcontractors and any other confidential information concerning the Company's business or its products which the Customer may obtain.

13.2 The Customer may disclose such information:

13.2.1 to its employees who need to know such information solely for the purposes of carrying out the Customer's obligations under any Contract; and

13.2.2 as may be required by law, court order or any governmental or regulatory authority, but then only to the extent so required.

13.3 The Customer shall ensure that its employees to whom it discloses such information comply with this Condition 13.

13.4 The Customer shall not use any such information for any purpose other than to perform its obligations under any Contract.

13.5 Unless otherwise agreed between the parties in writing, the Customer acknowledges and agrees that any visit to any and/or all of the Customer's sites by or on behalf of the Company will be solely for the purposes of marketing and relationship development

13.6 The Company will take all reasonable precautions to keep the details of the Contract and payment secure, but unless we are negligent, we will not be liable for unauthorised access to information supplied by the Customer. We will only use the information provided by the Customer for the purposes of fulfilling the Contract.

14 **LIABILITY**

14.1 The limits and exclusions in this Condition 14 reflect the insurance cover the Company has been able to arrange. The Customer is responsible for making its own arrangements for the insurance of any excess liability.

14.2 Nothing in these Conditions limits or excludes any liability for:

14.2.1 death or personal injury caused by negligence;

14.2.2 fraud or fraudulent misrepresentation;

14.2.3 any liability that legally cannot be limited or excluded.

14.3 The Company shall not be liable in contract, tort (including negligence or breach of statutory duty) or otherwise for any indirect, special, or consequential loss or damage or for any of the following losses or damages, in any such case arising out of, or in connection with, these Conditions or any Contract:

14.3.1 loss of actual or anticipated profits;

14.3.2 loss of business opportunity;

14.3.3 loss of anticipated savings;

14.3.4 loss of goodwill; or

14.3.5 injury to reputation

14.4 Subject to Condition 14.3, the entire liability of the Company arising out of or in connection with a Contract whether in contract, tort (including negligence or breach of statutory duty) or otherwise, is limited to an aggregate figure of £2,000,000 in the aggregate.

14.5 The Company's obligations set out in Condition 8 shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of any Deliverables and, save as provided in Condition 8, the Company shall not be under any liability, whether in contract, tort or otherwise, in respect of defects or deficiencies in any Deliverables or for any injury (other than personal injury caused by the Company's negligence as defined in the Unfair Contract Terms Act 1977 Section 1), damage or loss resulting from such defects or deficiencies or from any work done in connection therewith.

14.6 Save as provided in these Conditions and except as aforesaid, the Company shall not be under any liability whether in contract, tort or otherwise in respect of defects or deficiencies in any Deliverables or failure to correspond with any specification or for any injury, damage or loss resulting from such defects or deficiencies or from any work done in connection therewith (including but not limited to loss of profit, liability to third parties and any loss or damage to the Customer's land or property).

15 CUSTOMER'S DEFAULT OR INSOLVENCY

15.1 The Company reserves the right at any time to require satisfactory references as to the Customer's financial status. Should any reference prove unacceptable to the Company it reserves the right to cancel any Contract, or at its option suspend performance in whole or in part until satisfactory references or security for the price have been given.

15.2 This Condition 15 applies if:

15.2.1 the Customer commits or threatens to commit a breach of any of the provisions contained in these Conditions or any other of its other obligations to the Company; or

15.2.2 any payment due by the Customer to the Company is not paid on its due date for payment; or

15.2.3 the Customer passes a resolution for its winding up or a petition being presented at court (and not being discharged within 20 days) or a court makes an order for the other party to be wound up or dissolved or the other party is otherwise dissolved;

15.2.4 a receiver, manager, sequestrator, administrative receiver or other similar officer or other encumbrancer takes possession of, or is appointed over, or any distress, execution, attachment or other process is levied or enforced (and not being discharged within five days) upon, against or in respect of, the whole or any material part of the assets, rights or revenues of the Customer;

15.2.5 a petition or other form of application is presented or made at court for the making of an administration order or the appointment of an administrator of the Customer or an administrator of the Customer is appointed or notice of intention to appoint such an administrator is given or filed at court;

15.2.6 the Customer is, or is adjudicated or found to be, insolvent as set out in section 123 of the Insolvency Act 1986 or stops or suspends payments of its debts or is (or is deemed to be) unable, having no real prospect of being able, or admitting

inability, to pay its debts as they fall due or fails to satisfy any judgment debt in whole or in part within 14 days;

15.2.7 any moratorium, arrangement or composition with its creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) is obtained or entered into by or in relation to the Customer or any steps are taken to obtain or enter into the same or any proceedings are commenced in relation to the Customer under any law, regulation or procedure relating to the reconstruction or adjustment of debts or the Customer commences negotiations with one or more of its creditors with a view to the general readjustment or rescheduling of all or part of its debts;

15.2.8 the Customer ceases to trade;

15.2.9 any event equivalent to those in Conditions 15.2.1 to 15.2.8 (inclusive) occur in relation to the Customer in any jurisdiction; or

15.2.10 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

15.3 If this Condition 15 applies then, without prejudice to any right or remedy available to the Company, the Company shall be entitled to terminate the Contract or at its option to suspend the rendering or completion of Services under this or any other Contract with the Customer without any liability to the Customer, invoice the Customer for all Services rendered to the date of such suspension and require immediate payment of all amounts then invoiced by the Company to the Customer (notwithstanding any previously negotiated credit terms to the contrary).

16 FORCE MAJEURE

16.1 The Company shall not be in any way liable for any loss, damage or delay occurring by reason or in consequence of any force majeure or other matter or event beyond the Company's control including but not limited to labour trouble (whether or not involving employees of the Company), shortage of fuel, raw material or other supplies, civil commotion or war, governmental restrictions or regulations, fire or natural catastrophes, or interruption in the supply of utilities or fuel ("**Force Majeure Event**"). In such circumstances, performance of the relevant Contract shall by written notice given by the Company, be suspended. If such suspension continues for longer than 90 days, either party shall have the option to terminate the relevant Contract without liability for any loss caused to the other at such termination, except that where Products have been specially obtained for the Customer and, in the Company's reasonable opinion, there is no readily available market for them, the Company shall be entitled to charge the Customer for the costs and expenses incurred in respect of

those Products. The Customer shall upon suspension/termination pay for all Products delivered up to and including the date of such suspension or termination.

16.2 Where a Force Majeure Event materially increases the cost to the Company of performing the Contract, the Company may increase the price and extend any delivery/completion dates required to reflect such impact by giving notice to the Customer. This increase applies to all Deliverables in respect of all accepted orders.

17 WAIVER

No omission or delay by the Company in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of such right, power or privilege preclude any other or further exercise thereof or of any other right power or privilege. The rights and remedies herein provided are cumulative with and not exclusive of any rights or remedies provided by law.

18 SEVERANCE

If at any time any one or more of the provisions of the Conditions become invalid illegal or unenforceable in any respect under any law the validity and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby. If any provision or part-provision of the Contract is deemed deleted under this Condition 18, 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.

19 VARIATION

No variation or alteration of any of the provisions of a Contract or these Conditions shall be effective unless it is in writing and signed by or on behalf of each party.

20 ASSIGNMENT

20.1 The Company may assign any Contract or any part of it to any person, firm or company.

20.2 The Customer shall not be entitled to assign any Contract or any part of it without the prior written consent of the Company, not to be unreasonably withheld.

21 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

The parties to any Contract do not intend that any term of that Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

22 **TERMINATION**

If a party is in breach of a material term of these Terms and Conditions and despite written notice from the other party fails to remedy such breach within 30 days or such period as may be agreed between the parties, then the other party shall be entitled to terminate the Contract forthwith. The Company may seek to recoup costs incurred for works completed prior to termination.

23 **CANCELLATION AND RETURNS**

23.1 Once an order has been accepted by the Company, without prejudice to Condition 8, the Company is under no obligation to accept any cancellation or return of all or any part of that order by the Customer, whether before or after delivery of the relevant Products.

23.2 In particular, if the Customer purports to cancel or return all or any part of an order in respect of any Products which are non-standard/made to order Products, the Company reserves the right to continue to supply those Products / refuse to accept any return of those Products, and charge the full price for that order.

23.3 If the Company in its sole discretion agrees to accept the Customer's cancellation or return of all or any part of an order in respect of standard Products which are not made to order, the Company reserves the right to charge the Customer up to 50% of the price for the cancelled/returned standard Products. The Customer acknowledges that this is a fair amount as it is a genuine pre-estimate of the loss that the Company may suffer as a result of the cancellation/return, for example in respect of Inspection, repackaging, restocking, administration and third party costs.

23.4 Any Products returned in accordance with this Condition 23 must be in A1 re-sellable condition (being unused, undamaged, and in their original undamaged packaging with all accessories, documentation and labels intact).

23.5 The Customer shall keep confidential any such acceptance of the Customer's cancellation/return

24 **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.

25 **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.

26 **NOTICES**

Any written notice under these Conditions given by one party to the other shall be sufficiently made or given by delivery by hand or by sending the same by ordinary pre-paid first class letter post to the last known registered office or principal place of business and if so hand delivered shall be deemed to be given upon delivery and if so sent shall be deemed to be given two days after the date of posting.

27 **ENTIRE AGREEMENT**

These Conditions and the documents referred to in them together constitute the entire agreement between the parties, and each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it has no claim for innocent or negligent misrepresentation based on any statement in the Contract.