



Incorporating



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**HVC Supplies (Stourbridge) Ltd**

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## **HVC Supplies (Stourbridge) Ltd - Full Terms and Conditions**

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### **1. Interpretation.**

HVC Supplies (Stourbridge) Ltd, registered in England and Wales with company number 01075200 (**HVC**).

In placing any order with the Supplier, the Customer warrants that they are not a consumer and that they trade with the Supplier as a business Customer. If that is not the case, the Customer must notify the Supplier in writing.

The Conditions listed comprise the Contract in total between the Supplier and the Customer at the exclusion of all other warranties, terms or conditions either expressed or implied.

Other than in writing by a director of HVC, there will be no departure from these Conditions.

### **1.1 Definitions**

In these Conditions, the following definitions apply:

**1.1.1 Business Day:** A day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

**1.1.2 Commencement Date:** Has the meaning set out in 2.1.

**1.1.3 Conditions:** These terms and conditions as amended from time to time in accordance with clause 2.7.

**1.1.4 Contract:** The contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

**1.1.5 Supplier:** The party supplying services or goods (**HVC**).

**1.1.6 Customer:** The party purchasing services or goods.

**1.1.7 Deliverables:** The deliverables set out in the Order.

**1.1.8 Delivery Location:** Has the meaning set out in clause 9.1.

**1.1.9 Force Majeure Event:** Has the meaning given to it in clause 15.

**1.1.10 Goods:** The goods (or any part of them) set out in the Order.

**1.1.11 Goods Specification:** Any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier.

**1.1.12 Data Protection Legislation:** Up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

**GDPR:** General Data Protection Regulation ((EU) 2016/679)

**1.1.13 Intellectual Property Rights:** 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.

**1.1.14 Order:** The Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, as the case may be.

**1.1.15 Order Acknowledgment:** The written acceptance that the Supplier issues of the Customer's Order

**1.1.16 Services:** The services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification.

**1.1.17 Service Specification:** The description or specification for the Services provided in writing by the Supplier to the Customer.

**1.1.18 Supplier Materials:** Has the meaning set out in clause 4.4.

## **1.2 Construction.**

In these Conditions, the following rules apply :

**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 personal representatives, successors or permitted assigns;

**1.2.3** A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

**1.2.4** Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

## **2. Basis of contract.**

**2.1** The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

**2.2** The Order shall only be deemed to be accepted when the Supplier issues the Order Acknowledgment and all information required from the Customer is supplied to the Supplier, at which point and on which date the Contract shall come into existence (**Commencement Date**).

**2.3** The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.

**2.4** Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier'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 or have any contractual force.

**2.5** 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 trade, custom, practice or course of dealing.

**2.6** Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 (thirty) days from its date of issue (see clause 3).

**2.7** All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

**2.8** The Supplier reserves the right to revise and amend these terms from time to time as is deemed suitable for (but not limited by) regulatory alteration or supplier protection.

## **3. Quotations.**

**3.1** All quotations are, unless otherwise stated in the quotation or other written communication, valid for a period of 30 (thirty) days from the date of issue.

**3.2** Any delivery period quoted will not begin until the Supplier has accepted the Customer's Order (see clause 2.1).

## **4. Goods.**

**4.1** The Goods are described in the Suppliers catalogue as modified by any applicable Goods Specification.

**4.2** To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, The Customer shall indemnify the Supplier 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 and other 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 arising out of or in connection with the Suppliers use of the Goods Specification. This clause (clause 4.2) shall survive termination of the Contract.

**4.3** The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

### **4.4 Supplier Materials**

#### **4.4.1 Materials, tools plant and machinery**

**4.4.1.1** The Customer will safely store and indemnify against loss and damage, all materials, tools, plant and machinery (not exclusive of all other property) brought on to a site by the Supplier for the purpose of the Contract.

## **4.4.2 Samples**

**4.4.2.1** Any sample of goods or parts will remain the property of the Supplier unless agreed, in writing, by the Supplier.

**4.4.2.2** All samples and parts provided by the Supplier will be deemed as satisfactory, correct and acceptable unless the Supplier is notified, in writing, by the Customer within 5 business days of receipt. All subsequent deliveries in accordance with a sample will be in compliance with the contract unless such written notification is received.

## **5. Supply of Services.**

**5.1** The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.

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

**5.3** The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

**5.4** The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

## **6. Contract Price.**

**6.1** The payable price for the Goods and or services supplied shall be that detailed in the Order Acknowledgement.

**6.2** The Supplier reserves the right to, from time to time, increase the cost detailed in the Order Acknowledgement by giving written notice in advance to the Goods and or services being delivered to reflect increased costs beyond the reasonable control of the Supplier such as (but not limited by) foreign exchange fluctuation, alteration of duties, labour / material cost increase, changed regulation, any alteration to quantity or specification of the contract by the buyer or failure to provide sufficient information / instruction in the required time-scales.

**6.3** All prices are quoted inclusive and exclusive of Value Added Tax (VAT) but exclusive of any other taxes or duties relevant to the supply, these additional costs are to be borne by the Customer.

**6.4** Where Goods and or Services are requested by the Customer in addition to the Order Acknowledgement, the Supplier shall be entitled to charge for such in adherence to current pricing.

**6.5** The Customer will ensure that all deliveries are enabled in terms of, but not limited by, lifting equipment, access, resources and safety equipment at the full and total cost of the Customer unless agreed in writing with the Supplier.

## **7. Payment.**

**7.1** Unless otherwise agreed in writing, the Customer shall pay the invoice in full and in cleared funds within 60 days from the end of the invoiced month. Time of payment is of the essence.

**7.2** If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall:

**7.2.1** Pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time.

**7.2.2** Be subject to administration charges under the Late Payment of Commercial Debts (Interest) Act 1998

**7.3** The Supplier reserves the right to suspend or cancel any Order owed to the Customer under any Contract in the event of late or non-payment.

**7.4** Full payment must be made for all invoices, deductions such as counter-claim, off-set or otherwise may not be deducted from the due amount.

**7.5** The Customer will indemnify the Supplier, in the instance of the Customers breach of payment obligations, for all costs and expenses incurred.

**7.6** All monies owed to the Supplier by the Customer will become due immediately upon termination or cancellation of this Contract.

**7.7** Payments will only be deemed as received upon the Suppliers receipt of cleared funds.

**7.8** Queried invoices will only be assessed within the terms of trading with that Customer at the time.

**7.9** The Supplier reserves the right to alter the credit terms afforded to any Customer in writing and without notice.

**7.10** The Supplier may, where deemed necessary, require the Customer to provide security or guarantee against any credit advanced.

## **8. Risk and Title of Goods.**

### **8.1 Risk.**

**8.1.1** All risk associated with the Goods and liability to third parties in respect thereof shall pass to the Customer when the Goods leave the Suppliers site if collected by the Customer or, if the Goods are delivered to the Customer by the Supplier, on the arrival of the Goods at the Customers site.

## **8.2 Title.**

**8.2.1** Ownership of the Goods will not pass to the Customer from the Supplier until all sums due to the Supplier have been received in full. This is not affected if the Goods have been used, moved on or affixed within a property.

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

**8.2.2.1** Hold the Goods on a fiduciary basis as the Supplier's bailee;

**8.2.2.2** Store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

**8.2.2.3** Not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

**8.2.2.4** Maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

**8.2.2.5** Notify the Supplier immediately if it becomes subject to any of the events listed in clause 9.2; and

**8.2.2.6** Give the Supplier such information relating to the Goods as the Supplier may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business.

**8.2.3** If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 10.2, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier 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.

## **9. Delivery.**

**9.1** Delivery Location will be taken as the Customers registered address unless specified otherwise in writing (such as on the purchase order).

**9.2** Estimated despatch dates will be stated on the Order Acknowledgement. This date does not include time for transportation. Dependant on method of delivery transportation requested / selected additional time may be required.

**9.3** The delivery of Goods and or services is subject to estimation and the Supplier shall not be responsible for the failure to deliver Goods and or services on the proposed date, nor can the Customer cancel any Order for product delay, howsoever caused.

**9.4** If the Customer requests to collect the Goods, the Supplier will endeavour to comply with the requested date. Collections can be made between 09:00 – 13:00 and 14:00 – 16:30 on a Business Day. Time is not of the essence.

**9.5** If delivery is via the Suppliers own transport, delivery will be planned for the requested date.

**9.6** Upon delivery, all Goods must be checked immediately for damage:

**9.6.1** If damage is found whilst the delivery driver is still present, the Goods must be signed for as damaged.

**9.6.2** If damage is extensive, the Customer should refuse the delivery.

**9.6.3** If damage is found after the delivery driver has left, this must be reported to the Supplier immediately and in writing. Any such report in excess of 24 (twenty four) hours of the delivery will be invalid.

**9.6.4** If the delivery driver will not permit time to inspect a delivery, the Customer should sign for the Goods as damaged. The Customer should not sign as 'unchecked' as this is not the correct method to report damaged Goods and it will not be a valid response.

**9.7** If Goods fail to arrive with the Customer on the expected date, this should be reported to the Supplier in writing within 5 days of the date expected.

**9.8** The Supplier will not be responsible for any consequential cost as a result of late, missed or damaged deliveries.

**9.9** No claim for lost or damaged goods will be permitted unless this Contract has been adhered to.

**9.10** Removal from the delivery transportation and subsequent safe handling of the goods is the responsibility of the Customer. The Supplier accepts no responsibility for the removal of the Goods from the transportation, their handling, positioning or installation.

**9.11** If a delivery is aborted due to lack of information or refusal by the Customer, the Goods and or services will be treated as delivered and the risk of those Goods and or services will pass to the Customer. In such case, the Supplier will store and maintain the Goods and or services for a maximum of 7 (seven) days unless alternatively agreed in writing. The Customer will be wholly liable for the direct and indirect costs and expenses associated with the storage and re-delivery.

**9.12** No Goods and or services are to be returned by the customer to the supplier without written authorisation by the Supplier and the provision of a Goods return label and number.

**9.13** If part despatch of an Order is deemed beneficial, the Supplier will gain acceptance of this from the Customer prior to delivery. In this instance, part invoicing will occur.

## **10. Cancellation / Delay.**

**10.1** If, after the Supplier has accepted an Order from the Customer, the Customer cancels or postpones the Order the Customer will be liable for all consequential costs incurred.

**10.2** If the Customer fails to make payment for the Goods and/or Services in accordance with Condition 7 or otherwise commits a material breach of the Contract, or if the Customer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy be presented against the Customer or the Customer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Customer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver, administrator, administrative receiver or manager shall be appointed over the whole or any part of the Customer's business all sums outstanding in respect of Goods and/or Services shall become payable immediately. The Supplier may in their absolute discretion and without prejudice to any other rights which it may have:

**10.2.1** Suspend all Orders of Goods and/or Services to the Customer and/or terminate the Contract without liability on its part, and/or:

**10.2.2** Exercise any of its rights pursuant to Condition 7.

**10.3** In the event that the Supplier commits a material breach of the Contract and is notified in writing of this situation and fails to rectify within 28 days of the date of receipt of any written notice, the Customer can, in writing, terminate the contract.

**10.4** On termination of the Contract for any reason:

**10.4.1** The Customer shall immediately pay the Supplier any outstanding unpaid invoices

**10.4.2** In respect of Goods and/or Services supplied but for which no invoice has yet been submitted, We shall submit an invoice which is payable by the Customer immediately on receipt

**10.4.3** The Customer shall return all of the Supplier Materials which have not been paid for and may be on site. If the Customer fails to do so, the Supplier may enter the Customer's premises and take possession of them.

**10.4.4** Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

**10.5** Upon termination of the Contract, for any reason pursuant with these Conditions and subject to any obligations outstanding from the period leading to cancellation (including obligations to pay), neither party will hold further obligation applicable to that contract.

## **11. Site / Customer Access.**

**11.1** The Suppliers employees, subcontractors and agents will be given full use of services and access to site for the purpose of delivering Goods and/or Services.

**11.2** In the event of clause 11.1 being refused, the Customer will pay all associated cost involved with the delivery, including but not limited by, the associated administration cost, re-supply and any other associated costs incurred.

**11.3** The Customer must make the Supplier aware, in advance, of any operating conditions / limitations which may affect the delivery of the Goods and/or Services. The Supplier will then ensure that their employees, contractors and agents abide by the Customer site rules where sensible and the local health and safety requirements.

## **12. Warranty.**

**12.1** The Supplier warrants that on delivery of Goods and/or Services supplied pursuant to these Conditions for a period of 12 (twelve) months from delivery the Goods and/or Services shall:

**12.1.1** Be free from material defects in design, material and workmanship, and:

**12.1.2** Be fit for any purpose held out by the Supplier

**12.2** Subject to clause 12.3 if:

**12.2.1** The Customer gives notice in writing to the Supplier within 7 days of discovering that some or all of the Goods do not comply with the appropriate warranty set out in clause 12.1

**12.2.2** The Supplier is given a reasonable opportunity of examining such Goods; and

**12.2.3** The Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost

**12.2.3** This warranty is given in place of all other conditions and warranties, express or implied, arising by common law or statute.

**12.2.4** No responsibility is accepted by the Supplier for the failure to comply with any statutory or other regulations or local bye-laws affecting sighting, operation or construction of any goods or materials supplied by the Supplier, or for obtaining any consents necessary in respect thereof unless clearly specified by the Customer in writing and agreed to in writing by the Supplier.

The Supplier shall, at their option, repair or replace the defective Goods and/or Services, or refund the price of the defective Goods and/or Services in full.



**12.3** The Supplier shall not be liable for Goods and/or Services failure to comply with the warranty set out in clause 12.1 in any of the following events:

**12.3.1** The defect arises due to incorrect transportation, mishandling, incorrect installation by others, incorrect storage, fair wear and tear, or abuse

**12.3.2** 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;

**12.3.3** The defect arises as a result of the Supplier following any drawing or design supplied by the Customer;

**12.3.4** The Customer alters or repairs such Goods without the written consent of the Supplier;

**12.3.5** The defect arises on a replacement part fitted by a party other than the Supplier;

**12.3.6** The defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

**12.3.7** The Goods differ from the Order as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

**12.4** Except as provided in this clause 12, the Supplier shall have no liability to the Customer in respect of the Goods and/or Services failure to comply with the warranty set out in clause 12.1.

**12.5** Subject to the above, Goods and/or Services will be repaired or replaced free of charge and will be guaranteed for the unexpired period of the original warranty given under clause 12.1

**12.6** Any Goods and/or Services returned to the Supplier for repair under warranty that cannot be suitably repaired will be replaced with financial apportionment being agreed between Supplier and Customer. In such situations the returned Goods and/or Services become the property of the supplier.

### **13. Data protection and data processing.**

**13.1** Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

**13.2** The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

**13.3** Without prejudice to the generality of clause 13.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to the Supplier for the duration and purposes of the Contract.

**13.4** Without prejudice to the generality of clause 13.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:

**13.4.1** process that Personal Data only on the written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (**Applicable Data Processing Laws**). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit the Supplier from so notifying the Customer;

**13.4.2** ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

**13.4.3** ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

**13.4.4** not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

**13.4.4.1** the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;

**13.4.4.2** the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;

**13.4.4.3** the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

**13.4.4.4** the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

**13.4.5** assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

**13.4.6** notify the Customer without undue delay on becoming aware of a Personal Data breach;

**13.4.7** at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Data Processing Law to store the Personal Data; and

**13.4.8** maintain complete and accurate records and information to demonstrate its compliance with this clause 13.

**13.5** As a customer, HVC Supplies (Stourbridge) Ltd consents to the Supplier appointing a third-party processor of Personal Data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 13. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 13.

**13.6** HVC Supplies (Stourbridge) Ltd may, at any time on not less than 30 days' notice, revise this clause 13 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.

#### **14. Confidentiality / Intellectual Property Rights.**

All technical and commercial information shared between the Supplier and the Customer in relation to a Contract will remain confidential unless written consent is obtained from the originator prior to disclosure. All Intellectual Property born from the Supplier remains the sole ownership of the supplier.

#### **15. Limitation of Liability.**

**15.1** Nothing in these Conditions shall limit or exclude the Supplier's liability for:

**15.1.1** Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

**15.1.2** Fraud or fraudulent misrepresentation;

**15.1.3** Breach of the terms implied by section 12 of the Sale of Goods Act 1979;

**15.1.4** Defective products under the Consumer Protection Act 1987; or

**15.2** Subject to clause 14.1:

**15.2.1** The Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

**15.2.2** The Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods and/or Services.

**15.3** No warranty or other claim for compensation will be met by the Supplier once risk has passed to the Customer in accordance with clause 8.1, if either of the following is held to have occurred:

**15.3.1** The Customer has failed to properly store and maintain the Goods and/or Services (especially where these are stored on a construction site);

**15.3.2** The Customer has failed to follow written instructions on storage and maintenance

**15.4** The Customer agrees that apart from the Conditions contained herein, or in any document expressly stipulated therein to form part of the Contract and to be outside the provisions of this clause, no statement or representation has been made by the Supplier relating to the items supplied, or if any such statements or representations have been made, the Customer warrants that he understood them to be statements of opinion only, and did not rely upon them.

**15.5** The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

#### **16. Force Majeure.**

**16.1** No liability will exist with the supplier for any failure in performance or contractual obligation due to the effect of Force Majeure. (Circumstances beyond the reasonable control of the seller).

**16.1.1** The Supplier has the right to delay, cancel or reduce a Contract in these situations.

**16.1.2** Following Supplier's notification to the Customer of such incident, the Customer will allow reasonable extension to contract when requested. Should this period exceed 6 (six) months, the Customer has the right to cancel the contract in writing with the Supplier.

**16.2** Force Majeure shall include, but is not limited to; act of God, flood, fire, explosion, sabotage, act of terrorism, war or civil unrest, governmental action, riot, labour disputes (suppliers or other), delays with carriers, delays unusually effecting part supply and other unusual events.

## **17. Notice.**

**17.1** Unless alternatively specified in the contract, all communication between Supplier and Customer about this contract must be in writing.

**17.2** Written communication shall be deemed as:

**17.2.1** Delivered by hand.

**17.2.2** Sent by pre-paid first class post.

**17.2.3** Facsimile.

**17.2.4** E-Mail.

**17.3** Communication by post to either Supplier or Customer should be to the registered office address or such other address as notified by the Supplier or Customer respectively.

**17.4** Communication shall be deemed received:

**17.4.1** On the day of delivery if delivered by hand.

**17.4.2** If sent by e-mail or facsimile before 16:00 then on the day of transmission, otherwise the following day.

**17.4.3** 2 (two) working days after posting by first class post.

## **18. Assignment and Sub-contracting**

**18.1** The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

**18.2** The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

## **19. General**

### **19.1 - Severance**

**19.1.1** If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

**19.1.2** If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

### **19.2 – Waiver**

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. 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 preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

### **19.3 – Third Party Rights**

A person who is not a party to the Contract shall not have any rights under or in connection with it.

### **19.4 - Variation**

Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when the Customer is notified in writing

### **19.5 – Governing Law and Jurisdiction**

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales



I have read and accept these Conditions on behalf of the Customer.

**Signed:** .....

**Company Name:** .....

**Delete as applicable:** Director/Secretary/Authorised Signatory

**Dated:** .....

Please be aware that the Customer's failure or refusal to sign these Conditions will not invalidate their application to any contract for supply of Goods and/or Services formed after the date that these conditions are communicated.

The Customer is hereby fixed with knowledge of the content of these Conditions and your instructions to HVC to proceed with an Order will be taken as your agreement to these Conditions in full.

**Registered office:**  
HVC Supplies (Stourbridge) Ltd  
Jason House  
91 - 95 King William Street  
Stourbridge  
West Midlands  
DY8 4EY  
United Kingdom

Registered in England and Wales: 1075200



Assessed to ISO 9001  
Cert/Ref No. 1186