

Warranty Information

Part 1: Product Warranties 10 years

naughtone warrants to the original purchaser that its products are free from defects in materials and workmanship for a period of **10 years** from date of delivery, except as noted below. This warranty applies to single shift (standard 8-hour day, 5 days per week) use.

Exceptions 5 years

Stacking chairs, metal chair frames, seating components including adjustment mechanisms, height adjustment mechanisms and pneumatic cylinders, monitor supports and tablet arm assemblies, wood veneer and low pressure laminate (LPL) surfaces, urethane and wood edge treatments, upholstery/ tailoring and exposed wood frames.

Fabric, Vinyl & Leather

naughtone offers no warranty, either implied or expressed, on any fabrics or leathers used on our products. Fabrics and leathers carry warranties from the fabric manufacturer or reseller. Please refer to each reseller's warranties before specifying. Because every fabric specification is different and application for use must be taken into consideration, naughtone shall not be held responsible in any manner for wrong specification of fabric for tailoring, wear, durability, or light fastness.

Part 2: Limitations and Exceptions A) General

The warranties set out in Part 1 of Schedule 1:

- provide coverage to the Customer only;
- do not apply to (i) merchandise that was, at any time, used as a floor sample or display model, (ii) any merchandise purchased "as is" or second-hand, (iii) any merchandise purchased at a distress sale or a 'going out-of-business' sale, or (iv) any merchandise purchased from a liquidator.

The Product Tolerances set out in Schedule 2 shall apply. Products shall not be deemed to be in breach of warranty, or otherwise defective, by reason of an issue that is covered in Schedule 2.

All warranties, whether express or implied, cover only normal usage. No warranty, express or implied, applies to any Product condition resulting from misuse, abuse, delivery or transportation damage, nor any Product condition resulting from incorrect or inadequate maintenance, cleaning or care. Warranty is null and void if furniture has been moved from original point of delivery to consumer.

B) Chemical Treatments

The warranties do not cover damages or defects caused by use of chemical treatments or protective coatings on the finish, leather, or upholstered fabric by the Customer, and any such chemical treatments or protective coatings voids all warranties of naughtone.

C) Leather, Upholstered Fabric and Finishes

The warranties on "Leather", "Upholstered Fabric" and "Finishes and all Other Furniture Products" do not cover (i) damages resulting from excessive soiling, improper or unapproved cleaning methods, or (ii) fading or other damages resulting from exposure to sunlight. The warranties do not apply to any Products that have been altered by any person, dealer, or company without the express written authorisation of naughtone



Warranty Information

D) Modifications to Products

These Limited Warranties do not apply to any products that have been altered by any person, dealer, or company without the express written authorisation of naughtone ltd.

E) Electrical components

naughtone is a reseller of electrical power & data components and offers a 1 year warranty on these items.

Part 3:

Remedies for Breach of Warranty and Liability of naughtone

Where naughtone has established to its reasonable satisfaction that a breach of warranty has occurred, naughtone shall at its option:

- itself repair or replace the defective product or component part; or,
- pay a sub-contractor or agent reasonable and customary labour rates to repair or replace the defective part; and,
- pay shipping costs from the client to and from naughtone (or to and from naughtone's sub-contractor or agent) at no charge to the Customer.

The provisions of clause 8 of the Conditions shall apply in relation to all warranty claims in addition to the limitations and exceptions set out in Part 2 of Schedule 1.

Effective August 2021



Product Tolerances

Dimension Tolerance

All dimensions and specifications supplied by naughtone are by way of general description and not binding in any way. Unless separately agreed on the Order Confirmation naughtone will work within manufacturing tolerances to supplied dimensions and descriptions. Please check with naughtone as to the exact dimensional tolerance for a specific Product or material. naughtone reserves the right to make changes to any specified dimension and Product description at any stage.

Powder Coating Finish Tolerance

naughtone standard powdercoat is 'semi matt' sheen. This is a standard we have introduced across the range as of late 2013. Items ordered to match product prior to this date may have a slight variation in sheen to new production. Semi matt is a roughly 30% gloss level and although we quality control the consistency of the appearance of our powder coated Products very slight differences in the sheen of some finishes may be observed due to the shape of the object and variations in ambient condition during the curing process.

Marble & Composite Stone Tolerance

naughtone will quality control extreme differences in colour and inconsistency with stone and composite stone finishes but these materials will certainly have variation from physical samples and images.

Fabric & Leather Colour Tolerance

naughtone quality controls all of the fabric we purchase for structural defects and extreme colour variations. We do however accept that fabric is dyed in batches to guide colours. Therefore there may be very slight tone and hue differences between batches of fabric even if they are from the same range and supplier. This becomes most important to note when ordering furniture to match previous orders or furniture from other suppliers.

Solid Timber Surface Finish Tolerance

Whilst we endeavour to match our timber Products for a consistent look there will certainly be variation from our imagery and samples. Timber variations may include darker and lighter patches, tighter or more spaced out grain patterns. On some occasions there may even be very small, shallow holes in the material.

Care Instructions

Regular Cleaning

Weekly light vacuuming is desirable to remove dirt and dust particles and greatly extends the life of the fabric. Under conditions of normal wear, annual or semi-annual cleaning will preserve and enhance wool/woolblend upholstery. Housekeeping schedules, however, should be site-specific and correctly adapted to the nature and degree of usage experienced. Seating in the vicinity of food counters or bars, for example, is obviously more prone to abuse and should therefore be subject to more frequent attention. Call in professional cleaning services or use only reputable brands of upholstery shampoo and follow the maker's instructions exactly, first testing the product on an inconspicuous part of the furniture. Never use soap, ammonia, bleach or other cleaners intended for use on hard surfaces.

Removing Stains

If something should be spilt or dropped on wool wool blend furnishing fabric, the golden rule for removing stains is speed. Most spots will vanish if treated immediately and are not allowed to dry in, so keep the necessary cleaning materials all together in one convenient place. First, mop up any excess liquid with absorbent tissue or a clean cloth and scoop up dry solids on a spoon. Most stains can be treated with one of three cleaning liquids – dry cleaning fluid, upholstery shampoo or clean water. Use the cleaning method shown in the chart. Always work inwards from the edge of the stain to prevent spreading. Do not over-wet the fabric but use small amounts of cleaning liquid at a time and blot between applications. Liquids should never be pressed through the fabric. Continue until the stain has disappeared. Do not rush or panic, but work patiently and thoroughly. If the stain cannot be identified or removed, seek expert advice from a reputable dry cleaning organisation.

Caution!

Dry cleaning fluids may be toxic or flammable.

Type of Treatment

- 1 Proprietary upholstery shampoo solution
- 2 Proprietary agents for greasy stains
- 3 Clean warm water
- 4 Cold water
- 5 Absorbent paper and hot iron
- 6 Chewing gum remover (freezing agent)
- 7 Surgical alcohol
- 8 Nail polish remover (preferably acetone).
- 9 Turpentine or white spirit
- 10 Vacuum
- 11 Proprietary absorbent powders
- 12 Hydrogen peroxide diluted to 1 vol
- 13 Scrape lightly with a coin

A-Z Stains

Beer	1	Lipstick	1 2
Beverages	1 3	Metal Polish	1 2
Blood	1 4	Milk	1 3
Burn / Scorch	12 13	Mustard	1
Butter	1 2	Nail Polish	2 8
Chewing Gum	6	Oil & Grease	1 2
Chocolate	1 2	Paint (Emulsion)	1 4
Colas	1 3	Paint (Oil)	1 2 9
Cooking Oils	1 2	Salads Dressing	1 2
Cream	1 2	Shoe Polish	1 2
Eggs	1	Soot	1 2 10
Felt Tip Pen	1 3 7	Tar	1 9
Fruit Juice	1 3	Urine (Fresh Stain)	1
Furniture Polish	1 2	Urine (Old Stain)	1 3
Gravies & Sauces	1 3	Vomit	1 3
Ink (Fountain Pen)	1 3	Wine	3 11
Ink (Ball Point)	1 7		

Terms and Conditions of Supply

1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Conditions the following definitions apply:
- 1.2 “Affiliate” means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
- 1.3 “Business Day” means a day other than a Saturday, Sunday or bank or public holiday in England;
- 1.4 “Conditions” means the Supplier’s terms and conditions of sale set out in this document;
- 1.5 “Contract” means the agreement between the Supplier and the Customer for the sale and purchase of Products incorporating these Conditions and the Order;
- 1.6 “Control” has the meaning given to it in section 1124 of the Corporation Tax Act 2010;
- 1.7 “Customer” means the person who purchases the Products from the Supplier and whose details are set out in the Order;
- 1.8 “Delivery Matter” has the meaning given in clause 5.7;
- 1.9 “Force Majeure” means an event or sequence of events beyond a party’s reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service or material required for performance of the Contract; strike, lockout or boycott or other industrial action including strikes or other industrial disputes involving the Supplier’s or its suppliers workforce, but excluding the Customer’s inability to pay or circumstances resulting in the Customer’s inability to pay;
- 1.10 “Grace Period” has the meaning given in clause 2.6;
- 1.11 “Intellectual Property Rights” means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case:
 - whether registered or not
 - including any applications to protect or register such rights
 - including all renewals and extensions of such rights or applications
 - whether vested, contingent or future
 - to which the relevant party is or may be entitled, and
 - in whichever part of the world existing;
- 1.12 “Location” means the address for delivery of the Products as set out in the Order or any alternative address agreed in writing between the Supplier and the Customer;
- 1.13 “Order” means an order for the Products from the Supplier placed by the Customer containing a minimum of the following information: Customer name (full company details to be provided), Customer contact details, Customer purchase order number or reference, Products ordered (reference, description and price), requested delivery location;
- 1.14 “Order Confirmation” has the meaning given in clause 2.5;
- 1.15 “Price” has the meaning given in clause 3.1;
- 1.16 “Products” means the goods and related accessories, spare parts and documentation and other physical material set out in the Order and to be supplied by the Supplier to the Customer;
- 1.17 “Product Tolerances” mean the product tolerances described in Schedule 2 as may be amended by the Supplier from time to time;
- 1.18 “Supplier” or “Naughtone” means Naught One Limited trading as “Naughtone”, a company registered in England & Wales under company number 05285557 whose registered office is at Second Floor Suite A, 33 Park Place, Leeds, LS12RY and whose trading address is Knaresborough Technology Park, Manse Lane, Knaresborough, HG 5 8LF;
- 1.19 “VAT” means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Products; and
- 1.20 “Warranty Information” means the Supplier’s specific Product warranties as may be amended by the Supplier from time to time (the version currently in force being those set out in Schedule 1).
- 1.21 In these Conditions, unless the context requires otherwise:
 - any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
 - a reference to a ‘party’ means a party to the Contract and includes that party’s personal representatives, successors and permitted assigns;
 - a reference to a ‘person’ includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person’s personal representatives, successors and permitted assigns;

- a reference to a ‘company’ includes any company, corporation or other body corporate, wherever and however incorporated or established;
- a reference to a gender includes each other gender;
- words in the singular include the plural and vice versa;
- any words that follow ‘include’, ‘includes’, ‘including’, ‘in particular’ or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- a reference to ‘writing’ or ‘written’ includes any method of reproducing words in a legible and non-transitory form; and
- a reference to legislation is a reference to that legislation amended, extended, re-enacted or consolidated from time to time.

2. APPLICATION OF THESE CONDITIONS

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer’s purchase conditions, Order, specification or other document or communication shall form part of the Contract except to the extent that the Supplier otherwise expressly agrees in writing.
- 2.3 Each Order by the Customer to the Supplier shall be an offer to purchase Products subject to these Conditions.
- 2.4 The Supplier may accept or reject an Order at its discretion. If the Supplier is unable to accept an Order, it shall notify the Customer as soon as reasonably practicable.
- 2.5 An Order shall not be accepted, and no binding obligation to supply any Products shall arise, until the Supplier issues to the Customer written acceptance of the Order including confirmation of the Order details (Order Confirmation) at which point the Contract is formed.
- 2.6 The Customer may amend or cancel an Order, or contact the Supplier with corrections to the Order Confirmation, within 48 hours of the Supplier issuing the Order Confirmation (Grace Period) by notifying the Supplier in writing of the requested amendment, cancellation or correction. It is the Customer’s responsibility to check the Order Confirmation and report any errors to the Supplier within the Grace Period.
- 2.7 No amendment or cancellation of the Order, or change to the Order Confirmation, may be made by the Customer after the expiry of the Grace Period except with the written consent of the Supplier. Where the Supplier gives its consent to such amendment or cancellation after the expiry of the Grace Period, the Supplier may require the Customer to pay additional charges as a condition of its consent.
- 2.8 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply Products and are incapable of being accepted by the Customer.
- 2.9 Marketing and other promotional material relating to the Products are illustrative only and do not form part of the Contract.

3. PRICE

- 3.1 The price for the Products shall be confirmed to the Customer in the Order Confirmation (Price).
- 3.2 The Price is inclusive of packaging, delivery and insurance where:
 - 3.2.1 delivery is to a Location in the UK mainland; or
 - 3.2.2 delivery is to a Location in the USA; and
 - 3.2.3 the Order value is £1000 or above (excluding VAT).
- 3.3 The Price is exclusive of packaging, delivery, and insurance where:
 - 3.3.1 delivery is to a Location which is not in the UK mainland or the USA; or
 - 3.3.2 the Order value is less than £1000 (excluding VAT).
- 3.4 The Price is also exclusive of installation and VAT (or equivalent sales tax).
- 3.5 Where delivery is not included in the Price, delivery shall be charged in addition at the Supplier’s standard rates.
- 3.6 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.
- 3.7 The Supplier may amend its price list at any time provided that, where an Order has been confirmed, the Price set out in the Order Confirmation will not be subject to increase unless fulfilment of the Order is delayed by the Customer.
- 3.8 Where Products are to be delivered to any Location that is not in the UK or the USA, the Customer shall be responsible for all costs, expenses, taxes, duties and charges associated with the import or delivery of the Products and will indemnify the Supplier in relation to any claims or demands that the Supplier may receive in relation to the same.

4. PAYMENT
 - 4.1 Unless the Supplier has agreed in writing to extend credit to the Customer, pro-forma invoices will be issued for all Products ordered and payment must be received by the Supplier with 4 days of issue of the Order Confirmation by the Supplier.
 - 4.2 Where the Supplier has agreed in writing to extend credit to the Customer:
 - 4.2.1 the Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit; and,
 - 4.2.2 payment terms are strictly 30 days from the date of delivery except where a different arrangement has been agreed in writing with the Supplier.
 - 4.3 The Customer shall pay all invoices:
 - 4.3.1 in full without deduction or set-off, in cleared funds by the due date; and
 - 4.3.2 to the bank account nominated by the Supplier.
 - 4.4 Time of payment is of the essence. Where sums due under these Conditions are not paid in full and in cleared funds by the due date:
 - 4.4.1 the Supplier may, where the Customer is to pay for Products on a pro-forma basis in accordance with clause 4.1, suspend production of the Products or cancel the Order; and, charge the Customer for all costs and expenses incurred up to the date of suspension or cancellation;
 - 4.4.2 the Supplier may, where the Customer has an agreed credit facility (in accordance with clause 4.2) suspend or terminate such facility immediately; and,
 - 4.4.3 the Supplier may, without limiting its other rights, charge interest on overdue sums at 4% a year above the base rate of HSBC Bank plc from time to time in force; and interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.
 5. DELIVERY
 - 5.1 An Order Confirmation shall specify whether the Products are to be:
 - 5.1.1 delivered by the Supplier, or by a carrier appointed by the Supplier, to the Location specified in the Order; or
 - 5.1.2 made available for collection by the Customer at the Supplier's, or carrier's, premises set out in the Order (as the case may be). The Customer shall collect the Products within the period specified in the Order.
 - 5.2 The estimated delivery date shall be notified to the Customer by the Supplier in the Order Confirmation and confirmed by the Supplier two weeks prior to the estimated delivery date.
 - 5.3 The Products shall be deemed delivered:
 - 5.3.1 if delivered by the Supplier under clause 5.1.1, on arrival of the Products at the Location (offloading is at the Customer's risk and the Customer may be required to provide staff to perform offloading for large and bulky items); or
 - 5.3.2 if delivered by a carrier under clause 5.1.1, on delivery of the Products by the Supplier to the carrier (offloading is at the Customer's risk); or
 - 5.3.3 if collected by the Customer under clause 5.1.2, when the Supplier makes the Products available for collection at the Supplier's, or carrier's, premises (as the case may be). Loading shall be performed at the Customer's risk and the Customer may be required to provide staff to perform loading for large and bulky items.
 - 5.4 Time of delivery is not of the essence. The Supplier shall use its reasonable endeavours to meet notified delivery dates but such dates are approximate only.
 - 5.5 The Products may be delivered by instalments. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
 - 5.6 Delivery of the Products shall be accompanied by a delivery note stating the date of the Order; and the product numbers, type and quantity of Products in the consignment.
 - 5.7 Any oversupply, undersupply, other inconsistency between the delivery note and the Order Confirmation, or any damage to Products apparent on delivery (Delivery Matter), must be notified to the Supplier in writing within 48 hours of delivery (and in the case of damage, the Supplier's damage form must be completed by the Customer and accompanied by photographic evidence). The Customer shall not be entitled to reject any delivery of Products on the basis of a Delivery Matter; and:
 - 5.7.1 in the event of an oversupply, the Supplier shall contact the Customer to arrange collection of the oversupplied Products from the Location as soon as reasonably practicable following notification of the oversupply; or,
 - 5.7.2 in the event of an undersupply, the Supplier shall contact the Customer to arrange delivery of the undersupplied Products to the Location as soon as reasonably practicable from notification of the undersupply; or,
 - 5.7.3 in the event of an inconsistency between the Order Confirmation and delivery note (e.g. the wrong consignment is delivered), the Supplier shall contact the Customer to arrange the replacement of Products or the collection of Products or the delivery of Products (as the case may be) as soon as reasonably practicable from notification of the inconsistency; or,
 - 5.7.4 where it is established to the Supplier's reasonable satisfaction that damage attributable to the Supplier has occurred to the Products prior to delivery, the applicable warranty (as set out in the Warranty Information and clause 8) shall apply.

The remedies set out at clauses 5.7.1-5.7.4 shall be the Customer's sole remedies in respect of Delivery Matters and the Supplier shall have no liability for any Delivery Matter except as set out in clauses 5.7.1-5.7.4.
 - 5.8 Unless the parties agree otherwise, packaging material is to be disposed of by the Customer and at the Customer's expense.
 - 5.9 The Supplier shall not be liable for any delay in or failure of delivery caused by:
 - 5.9.1 the Customer's failure to: (i) pay for the Products in accordance with clause 4; (ii) make the Location available, (iii) prepare the Location as required for delivery and (where applicable) installation of the Products or (iv) provide the Supplier with adequate instructions for delivery and (where applicable) installation;
 - 5.9.2 the delay by the Customer or a third party to supply materials required for incorporation into the Products (the Supplier must receive these within two weeks from Order Confirmation);
 - 5.9.3 the Customer's failure to collect the Products from the Supplier's premises; or
 - 5.9.4 Force Majeure.
 - 5.10 If the Customer fails to accept delivery of the Products the Supplier shall store and insure the Products pending delivery, and the Customer shall pay all costs and expenses incurred by the Supplier in doing so.
 - 5.11 Unless otherwise agreed in writing, the Supplier is not responsible for installing – or arranging installation – of the Products. Installation may be provided by separate agreement with the Supplier and is subject to additional charges.
6. RISK
 - 6.1 Risk in the Products shall pass to the Customer on delivery (as defined in clause 5.3).
 - 6.2 Where any Products are collected from the Customer by the Supplier under clause 5.7 or Part 3 of Schedule 1, risk in the relevant Products shall pass to the Supplier upon collection (loading is at the Customer's risk). Risk in the repaired or replaced Products shall pass to the Customer on delivery to the agreed delivery location (offloading is at the Customer's risk and the Customer may be required to provide staff to perform offloading for large and bulky items).
7. TITLE
 - 7.1 Title to the Products shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Products.
 - 7.2 Where delivery of the Products occurs before title passes to the Customer, and until title to the Products has passed to the Customer, the Customer shall:
 - 7.2.1 store the Products separately from other goods and ensure that they are identifiable as the Supplier's;
 - 7.2.2 keep the Products in the condition in which they were delivered and keep them insured for their full price from the date of delivery (and provide to the Supplier evidence of insurance on request);
 - 7.2.3 inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clauses 12.1.1 to 12.1.6.
 - 7.3 Notwithstanding clause 7.2, the Customer may use or resell the Products in the ordinary course of its business provided that any customer to whom it resell the Products is bound by credit terms and retention of title obligations equivalent to those set out in these Conditions. The Customer shall provide evidence of the same to the Supplier upon request.
 - 7.4 If the Customer resells the Products in accordance with clause 7.3, title to the Products shall pass to the Customer immediately prior to the resale.
 - 7.5 The Customer shall notify the Supplier at such time as it becomes aware or ought reasonably to have become aware that an event specified in clause 12.1.3 has occurred or is likely to occur.
 - 7.6 If, at any time before title to the Products has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clause 12.1.2 to 12.1.6, the Supplier may:
 - 7.6.1 require the Customer at the Customer's expense to re-deliver the Products to the Supplier; and
 - 7.6.2 if the Customer fails to do so promptly, enter any premises where the Products are stored and repossess them.
8. WARRANTY
 - 8.1 The Supplier provides a warranty in respect of each Product supplied for the period (Warranty Period) and on the terms set out in the Warranty Information.
 - 8.2 The Customer warrants that it has provided the Supplier with all relevant, full and accurate information as to the Customer's business and needs.
 - 8.3 In order to make a warranty claim, the Customer must:
 - 8.3.1 serve a written notice on Supplier during the Warranty Period;
 - 8.3.2 provide the Supplier with sufficient information as to the nature and extent of the defects and the uses to which the Products had been put prior to the defect arising including photographs and supporting descriptions; and,
 - 8.3.3 give the Supplier a reasonable opportunity to examine the information supplied by the Customer and/or the relevant Products.
 - 8.4 The Supplier shall not be liable for any failure of the Products to comply with clause 8.1:
 - 8.4.1 where such failure arises by reason of wear and tear, wilful damage, negligence, or could be expected to arise in the normal course of use of the Products;
 - 8.4.2 to the extent caused by the Customer's failure to comply with the Supplier's instructions in relation to the Products, including any instructions on installation, operation, care, storage or maintenance;

- 8.4.3 to the extent caused by the Supplier following any specification or requirement of the Customer in relation to the Products;
- 8.4.4 where the Customer modifies any Products without the Supplier's prior written consent or, having received such consent, not in accordance with the Supplier's instructions; or
- 8.4.5 where the Customer uses any of the Products after notifying the Supplier that they do not comply with clause 8.1.
- 8.5 The limitations and exceptions set out in the Warranty Information shall also apply to clause 8.1.
- 8.6 Except as set out in this clause 8 and the Warranty Information:
- 8.6.1 the Supplier gives no warranties and makes no representations in relation to the Products; and
- 8.6.2 shall have no liability for their failure to comply with the warranty in clause 8.1, and all warranties and conditions (including the conditions implied by ss 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.
9. LIMITATION OF LIABILITY
- 9.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 9.
- 9.2 Subject to clause 9.5, the Supplier's total liability shall not exceed value of the Order to which the liability relates.
- 9.3 Subject to clause 9.5, the Supplier shall not be liable for consequential, indirect or special losses.
- 9.4 Subject to clause 9.5, the Supplier shall not be liable for any of the following (whether direct or indirect): loss of profit; loss of data; loss of use; loss of production; loss of contract; loss of opportunity; loss of savings, discount or rebate (whether actual or anticipated); harm to reputation or loss of goodwill.
- 9.5 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
- 9.5.1 death or personal injury caused by negligence;
- 9.5.2 fraud or fraudulent misrepresentation;
- 9.5.3 any other losses which cannot be excluded or limited by applicable law.
10. CONFIDENTIALITY AND INTELLECTUAL PROPERTY
- 10.1 The Customer shall keep confidential all pricing information of the Supplier, and of any Affiliate of the Supplier, provided that, if so required by law or by regulatory authority, the Customer may disclose the pricing information to the extent required by such law or regulatory authority.
- 10.2 Intellectual Property Rights in connection with the Products will remain the Supplier's (or its licensor's) property and nothing in this Contract is intended to pass ownership of such rights to the Customer.
- 10.3 Except as necessary to permit the Customer to possess and make use of the Products, nothing in this Contract grants the Customer a licence in relation to Intellectual Property Rights in connection with the Products.
- 10.4 This clause 10 shall remain in force in perpetuity.
11. FORCE MAJEURE
- 11.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it promptly notifies the other of the Force Majeure event and its expected duration; and uses its reasonable endeavours to minimise the effects of that event.
- 11.2 If, due to Force Majeure, a party is delayed in or prevented from performing its obligations the parties shall work together in good faith to achieve, as nearly as possible, the original commercial intent of the Contract.
12. TERMINATION
- 12.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:
- 12.1.1 the Customer commits a material breach of the Contract;
- 12.1.2 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 14 days after the Supplier has given notification that the payment is overdue
- 12.1.3 if 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 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;
- 12.1.4 if 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;
- 12.1.5 if the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 12.1.6 the Customer undergoes a change of Control or if it is realistically anticipated that it shall undergo a change of Control.
- 12.2 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause 12, it shall immediately notify the Supplier in writing.
- 12.3 The termination or expiry of the Contract shall not affect any rights and liabilities of the parties accrued at any time up to the date of termination.
13. BOILERPLATE TERMS
- 13.1 Notices. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address provided by the receiving party; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 13.2 Cumulative Remedies. The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.
- 13.3 Entire Agreement. The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter. Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.
- 13.4 Fraud. Nothing in these Conditions purports to limit or exclude any liability for fraud.
- 13.5 Variation. Except as otherwise expressly provided in these Conditions, no variation of the Contract shall be valid or effective unless it is in writing and is duly signed or executed by, or on behalf of, the Supplier by an authorised representative.
- 13.6 Assignment. The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent. Notwithstanding the previous sentence, the Customer may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives the Supplier prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Customer acknowledges and agrees that any act or omission of its Affiliate in relation to the Customer's rights or obligations under the Contract shall be deemed to be an act or omission of the Customer itself.
- 13.7 Set Off. The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Supplier has with the Customer. The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.
- 13.8 No Partnership or Agency. The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.
- 13.9 Severance. If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 13.10 Waiver. No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy. No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.
- 13.11 Conflicts within the Contract. If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail.
- 13.12 Third Party Rights. A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract except that any Affiliate of the Supplier shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.
- 13.13 Governing Law and Jurisdiction. The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).