

Valid from 2021-09-01

**1. DEFINITIONS**

<b>Business Day:</b>	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
<b>Buyer:</b>	Nefab Packaging UK Limited (company number 04335687).
<b>Contract:</b>	the contract between the Buyer and the Seller for the sale and purchase of the Goods and/or the Services in accordance with these General Conditions.
<b>General Conditions:</b>	the terms and conditions set out in this document.
<b>Goods:</b>	the goods (or any part of them) to be supplied by the Supplier as set out in the Quotation.
<b>Order:</b>	the Buyer’s written acceptance of the Quotation.
<b>Services:</b>	the services (or any part of them) to be performed by the Supplier set out in the Quotation.
<b>Specification:</b>	any written specification for the Goods and/or the Services provided by the Buyer to the Supplier.
<b>Supplier:</b>	the person or firm from whom the Buyer purchases the Goods and/or the Services.
<b>Quotation:</b>	the Supplier’s written quotation for the supply of the Goods and/or the Services in accordance with the Specification (if any) or otherwise in accordance with any written description of the required Goods and/or Services provided by the Buyer to the Supplier.

**2. BASIS OF CONTRACT AND ORDERING**

- 2.1. On each occasion when the Buyer wishes to purchase Goods and/or Services from the Supplier:
  - 2.1.1. the Buyer shall request a Quotation; and
  - 2.1.2. following receipt by the Buyer of such Quotation, if the Buyer wishes to proceed on the basis of such Quotation, the Buyer shall issue an Order.
- 2.2. The Order constitutes an offer by the Buyer to purchase the Goods and/or the Services only in accordance with these General Conditions.
- 2.3. The Order shall be deemed to be accepted by the Seller on the earlier of:
  - 2.3.1. the Supplier issuing a written acceptance of the Order; and

- 2.3.2. the Supplier doing any act consistent with fulfilling the Order,

at which point the Contract shall come into existence.

- 2.4. These General Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing, and the Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these General Conditions.
- 2.5. The Buyer may cancel an Order in whole or in part at any time and for any reason without liability to the Supplier other than in respect of Goods already delivered or Services already performed prior to such cancellation.
- 2.6. Any forecast for anticipated purchases of Goods and/or Services provided by the Buyer to the Supplier shall be for information purposes only and shall not create any binding agreement for the purchase of such Goods and/or Services.

**3. SUPPLY OF GOODS**

- 3.1. The Supplier shall ensure that the Goods shall:
  - 3.1.1. correspond with their description and any applicable Specification;
  - 3.1.2. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Buyer, expressly or by implication, and in this respect the Buyer relies on the Supplier’s skill and judgement;
  - 3.1.3. where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 24 months after delivery; and
  - 3.1.4. comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.3. The Buyer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier’s obligations under the Contract.
- 3.4. If following such inspection or testing the Buyer considers that the Goods do not comply or are unlikely to comply with the Supplier’s undertakings at clause 3.1, the Buyer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

**4. DELIVERY OF GOODS**

- 4.1. The Supplier shall ensure that:
  - 4.1.1. the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition and in accordance with any specific written instructions given by the Buyer;
  - 4.1.2. each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the

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Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

- 4.1.3. it states clearly on the delivery note any requirement for the Buyer to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 4.2. The Supplier shall deliver the Goods:
  - 4.2.1. on the date specified in the Order or, if no such date is specified, then within 7 [SEVEN] days of the date of the Order;
  - 4.2.2. to the Buyer's premises at Unit 7 Wootton Industrial Estate, Northampton NN4 6HN or such other location as is set out in the Order or as instructed by the Buyer before delivery (**Delivery Location**); and
  - 4.2.3. during the Buyer's normal hours of business, or as instructed by the Buyer.
- 4.3. Delivery of the Goods shall be DAP (as defined in INCOTERMS 2020) Delivery Location unless otherwise agreed in writing by the Buyer and the Supplier.
- 4.4. The Supplier shall not deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately.
- 4.5. Title and risk in the Goods shall pass to the Buyer on completion of delivery.

## 5. SUPPLY OF SERVICES

- 5.1. The Supplier shall from the date set out in the Order and for the duration of the Contract supply the Services to the Buyer in accordance with the terms of the Contract.
- 5.2. The Supplier shall meet any performance dates for the Services specified in the Order or that the Buyer notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 5.3. In providing the Services, the Supplier shall:
  - 5.3.1. co-operate with the Buyer in all matters relating to the Services, and comply with all instructions of the Buyer;
  - 5.3.2. perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 5.3.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
  - 5.3.4. ensure that the Services will conform with all descriptions, standards and specifications set out in the Specification;
  - 5.3.5. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - 5.3.6. use the best quality goods, materials, standards and techniques, and ensure that all goods and materials supplied and used in the Services or transferred to the Buyer, will be free from defects in workmanship, installation and design;

- 5.3.7. obtain and at all times maintain all licences and consents which may be required for the provision of the Services; and
- 5.3.8. observe all health and safety rules and regulations and any other security or regulatory requirements that apply at any of the Buyer's premises.

## 6. BUYER REMEDIES

- 6.1. If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, the Buyer shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
  - 6.1.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 6.1.2. to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
  - 6.1.3. to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;
  - 6.1.4. to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
  - 6.1.5. to claim damages for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Supplier's failure to meet such dates.
- 6.2. If the Goods are not delivered by the applicable date or the Services are not performed by the applicable date, or both, the Buyer may, at its option, claim or deduct 5% of the price of the Goods for each week's delay in delivery of the Goods and/or claim or deduct 5% of the price of the Services for each week's delay in performance of the Services, in each case by way of liquidated damages, until the earlier of delivery of the Goods or performance of the Services, as applicable, or termination or abandonment of the Contract by the Buyer, up to a maximum of [50]% of the total price of the Goods (in respect of late delivery of the Goods) and up to a maximum of [50]% of the total price of the Services (in respect of late performance of the Services). If the Buyer exercises its rights in respect of late delivery under this clause 6.2 it shall not be entitled to any of the remedies set out in clause 6.1 in respect of the late delivery of the Goods. If the Buyer exercises its rights in respect of late performance under this clause 6.2 it shall not be entitled to any of the remedies set out in clause 6.1 in respect of the late performance of the Services.
- 6.3. If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 4.1, then, without limiting or affecting other rights or remedies available to it, the Buyer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
  - 6.3.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 6.3.2. to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
  - 6.3.3. to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

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- 6.3.4. to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - 6.3.5. to recover from the Supplier any expenditure incurred by the Buyer in obtaining substitute goods from a third party; and
  - 6.3.6. to claim damages for any additional costs, loss or expenses incurred by the Buyer arising from the Supplier's failure to supply Goods in accordance with clause 4.1.
- 6.4. If the Supplier has supplied Services that do not comply with the requirements of clause 5.3.4 then, without limiting or affecting other rights or remedies available to it, the Buyer shall have one or more of the following rights and remedies:
- 6.4.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 6.4.2. to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
  - 6.4.3. to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
  - 6.4.4. to recover from the Supplier any expenditure incurred by the Buyer in obtaining substitute services from a third party; and
  - 6.4.5. to claim damages for any additional costs, loss or expenses incurred by the Buyer arising from the Supplier's failure to comply with clause 5.3.4.
- 6.5. These General Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

## 7. CHARGES AND PAYMENT

- 7.1. The price for the Goods:
- 7.1.1. shall be the price set out in the Order, or if no price is quoted, the price shall be the lowest open market price at which Goods and/or Services (as applicable) of an equivalent specification and quality could reasonably be purchased by the Buyer; and
  - 7.1.2. shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Buyer.
- 7.2. The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Buyer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 7.3. In respect of the Goods, the Supplier shall invoice the Buyer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Buyer on completion of the Services. Each invoice shall include such supporting information required by the Buyer to verify the accuracy of the invoice, including the relevant purchase order number.
- 7.4. In consideration of the supply of Goods and/or Services by the Supplier, the Buyer shall pay the invoiced amounts within 90 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 7.5. All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of valued added tax

chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Buyer, the Buyer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

- 7.6. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Buyer to inspect such records at all reasonable times on request.
- 7.7. The Buyer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Buyer against any liability of the Buyer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Buyer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Buyer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

## 8. INDEMNITY

- 8.1. The Supplier shall indemnify the Buyer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Buyer arising out of or in connection with:
- 8.1.1. any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services;
  - 8.1.2. any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered; and
  - 8.1.3. any claim made against the Buyer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.

## 9. INSURANCE

- 9.1. During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, in each case with an indemnity limit of not less than five million Euros per claim, and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

## 10. FORCE MAJEURE

- 10.1. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 8 weeks, the party not

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affected may terminate the Contract by giving 30 days' written notice to the affected party.

## 11. TERMINATION

11.1. Without affecting any other right or remedy available to it, the Buyer may terminate the Contract with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of clause 14.

11.2. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

11.2.1. the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [10] days after being notified in writing to do so;

11.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, 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;

11.2.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

11.2.4. the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.

11.3. Termination of the Contract shall not affect the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

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

## 12. ASSIGNMENT AND OTHER DEALINGS

12.1. The Buyer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.

12.2. The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.

12.3. The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Buyer. If the Buyer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

## 13. CONFIDENTIALITY

13.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the

business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.2.

13.2. Each party may disclose the other party's confidential information:

13.2.1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13; and

13.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

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

## 14. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

14.1. In performing its obligations under the Contract, the Supplier shall:

14.1.1. comply with all applicable laws, statutes, regulations and codes from time to time in force including without limitation those applicable to environmental and health and safety matters; and

14.1.2. comply with the following mandatory policies of the Buyer:

14.1.2.1. Code of Conduct available at the following link:

<https://www.nefab.com/en/sustainability/code-of-conduct/>

14.1.2.2. Goods Packaging Requirements available at the following link:

[https://www.nefab.com/globalassets/nefab.com--group-site/documents/nefab\\_restricted\\_material\\_list.pdf](https://www.nefab.com/globalassets/nefab.com--group-site/documents/nefab_restricted_material_list.pdf)

## 15. GOVERNING LAW AND JURISDICTION

15.1. 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.

15.2. 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.

## 16. SEVERENCE

16.1. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision of the Contract is deemed deleted under this clause the parties shall negotiate in good faith to agree a replacement



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provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **17. WAIVER**

17.1. Except as set out in clause 2.4, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **18. NO PARTNERSHIP OR AGENCY**

18.1. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## **19. THIRD PARTY RIGHTS**

19.1. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

## **20. VARIATION**

20.1. Except as set out in these General Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.

## **21. ENTIRE AGREEMENT**

21.1. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

## **22. NOTICES**

22.1. Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- 22.1.1. delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 22.1.2. sent by fax to its main fax number.

22.2. Any notice shall be deemed to have been received:

- 22.2.1. if delivered by hand, at the time the notice is left at the proper address;
- 22.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- 22.2.3. if sent by fax, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

## **23. AUDITS**

The Buyer is authorized to perform audits of the Seller's facilities and/or production processes in order to verify that supplied products and services under an Order or Contract

comply with agreed quality requirements and the provisions of the Contract. The Seller may request from the Buyer information about the results of the audit, and shall be entitled to present evidence against potential non-conformities. The Seller shall establish appropriate corrective and preventive actions to correct any defects found which could lead to deviations of supplied product or service quality.

## **24. DATA PROTECTION**

- 24.1. If either party under applicable law should be considered processing data on behalf of the other party, the parties shall enter into a separate data processing agreement.
- 24.2. Both parties shall have the right to process necessary personal data concerning the other party's employees or other contact persons that may be acquired in connection with the Contract, including, but not limited to, names and contact details. Each party processing personal data in accordance with this clause shall be considered controller regarding their respective processing. The purpose of the processing is to enable the performance of the parties' respective obligations and cooperation under the Contract, such as the administration of the contractual relationship, the provision of information and other communication. The processing of personal data will be supported by a balance of interests in order to meet each party's legitimate needs in managing the contractual relationship.
- 24.3. For more information about Nefab's processing of personal data and the rights of data subjects, see "Information to Business Partners" on Nefab's website, [www.nefab.com](http://www.nefab.com), or contact [privacy@nefab.com](mailto:privacy@nefab.com).
- 24.4. Each party is obliged to ensure that its employees and other potential contact persons whose personal data is processed by the other party have received information on the processing in accordance with this clause 24.