

## CASWICK LIMITED TERMS AND CONDITIONS OF SALE

### 1. INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

#### 1.1 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>Caswick</b> ”	means Caswick Limited registered in England and Wales with company number 01955577.
“ <b>Commencement Date</b> ”	has the meaning given in clause 2.2.
“ <b>Conditions</b> ”	these terms and conditions as amended from time to time in accordance with clause 16.9.
“ <b>Contract</b> ”	the contract between Caswick and the Customer for the supply of Goods and/or Services in accordance with these Conditions.
“ <b>Customer</b> ”	the person or firm who purchases the Goods and/or Services from Caswick.
“ <b>Data Protection Legislation</b> ”	all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018 and all other legislation and regulatory requirements in force from time to time relating to the use of personal data.
“ <b>Force Majeure Event</b> ”	has the meaning given to it in clause 16.
“ <b>Goods</b> ”	the goods (or any part of them) set out in the Order.
“ <b>Intellectual Property Rights</b> ”	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
“ <b>Order</b> ”	the Customer's order for the supply of Goods and/or Services, as set in the Customer's email order, telephone order, purchase order form or the Customer's written acceptance of Caswick's quotation, as the case may be.
“ <b>Services</b> ”	the services (if any) supplied by Caswick to the Customer as set out in the Order.
“ <b>Specification</b> ”	any specification for the Goods and (if applicable) the Services, including any relevant designs or drawings, in each case agreed between the parties.

#### Interpretation:

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
  - 1.3 A reference to a party includes its successors and permitted assigns.
  - 1.4 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
  - 1.5 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
  - 1.6 A reference to **writing** or **written** includes email but not fax.
- ### 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 Caswick issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**). Any conditions included in Caswick's written order confirmation shall form part of the Contract. Any modification made to the Order by Caswick in its written acceptance of the Order shall prevail in the event of any inconsistency with the Order submitted by the Customer.
  - 2.3 Any samples, drawings, graphs, descriptive matter, advertising, measurements (including weight, dimensions and tolerances) issued by Caswick and any descriptions or illustrations of the Goods or Services contained on Caswick's website or in its catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods or Services described in them. They shall not form part of the Contract.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by Caswick shall not constitute an offer and is only valid for a period of 20 Business Days from its date of issue.

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

### 3. GOODS

3.1 The Goods are described in Caswick's catalogue or on Caswick's website, or (if applicable) as set out in the Specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify Caswick 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 Caswick arising out of or in connection with any claim made against Caswick for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Caswick's use of the Specification. This clause 3.2 shall survive termination of the Contract.

3.3 Caswick reserves the right to amend the Goods, Specification or Services:

3.3.1 if required by any applicable statutory or regulatory requirement, code of practice or in accordance with best industry practice; or

3.3.2 where doing so would not materially affect the nature or quality of the Goods or Services.

### 4. DELIVERY OF GOODS

4.1 Unless otherwise expressly agreed in writing between the parties, Caswick shall deliver the Goods to the location set out in the Order. If the Goods are to be collected ex-works from Caswick's premises, the Customer shall collect the Goods within 10 Business Days of Caswick notifying the Customer that the Goods are ready.

4.2 Delivery of the Goods shall be completed on Caswick making the Goods available to the Customer:

4.2.1 for loading at Caswick's premises, in the case of ex-works deliveries; or

4.2.2 for unloading at the delivery location specified in the Order or agreed in writing between the parties, for any other deliveries.

4.3 Any dates quoted or agreed for delivery of the Goods relate to the date of despatch of the Goods (being the date on which the Goods are provided to the carrier) and are approximate only. The time of delivery is not of the essence.

4.4 Caswick shall have no liability for any delay in delivery or failure to deliver the Goods to the extent that such delay or failure is caused by a delay by any of Caswick's suppliers, a Force Majeure Event or the Customer's failure to provide Caswick with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

4.5 If the Customer fails to take delivery of the Goods on the proposed delivery date or within the period for collection stipulated by Caswick, then except where such failure or delay is caused by Caswick's failure to comply with its obligations under the Contract:

4.5.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the date on which delivery would have occurred but for the Customer's default; and

4.5.2 Caswick shall store the Goods until delivery takes place and be entitled to charge the Customer for all related costs and expenses (including insurance).

4.6 If 10 Business Days after the date on which delivery would have occurred but for the Customer's failure to take delivery or collect the Goods, the Customer has not taken delivery of them, Caswick may resell or otherwise dispose of part or all of the Goods and, charge the Customer for any shortfall below the price of the Goods or for any costs incurred in connection with the disposal or destruction.

4.7 Caswick shall not be liable for any shortfall in the delivery of Goods if the Customer does not notify Caswick in writing of such shortfall within 7 days of delivery.

4.8 If Caswick delivers up to and including 5% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, Caswick shall make a pro rata adjustment to the invoice for the Goods.

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

4.10 The Customer agrees to inspect the Goods for defects or shortfall promptly upon delivery and in accordance with best industry practice.

### 5. QUALITY OF GOODS

5.1 Caswick warrants that on delivery the Goods shall:

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- 5.1.1 conform in all material respects with their description and any applicable Specification; and
- 5.1.2 be free from material defects in design, material and workmanship.
- 5.2 Caswick makes no representation or warranty in respect of the Goods being suitable for (a) any intended purpose held out by the Customer, or (b) use in combination with any other products. The Customer (or any third party engaged by the Customer to design the system into which the Goods are incorporated) is solely responsible for determining the suitability of the Goods for their intended purpose and any use in combination with other products.
- 5.3 Subject to clause 5.4, Caswick shall, at its option, repair or replace any Goods that do not comply with the warranty at clause 5.1, or refund the price of such Goods if:
- 5.3.1 the Customer gives notice in writing within 7 days of delivery that some or all of the Goods do not comply with the warranty set out in clause 5.1, or for latent defects that are not apparent within such period, within 7 days of the date on which the Customer became aware or ought reasonably to have become aware of the defect (and in any event such notice must be served not more than 1 year from the date of delivery);
- 5.3.2 Caswick is given a reasonable opportunity of examining such Goods; and
- 5.3.3 the Customer (if asked to do so by Caswick) returns such Goods to Caswick's place of business at the Customer's cost.
- 5.4 Caswick shall not be liable for the Goods' failure to comply with the warranty at clause 5.1 if:
- 5.4.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
- 5.4.2 the defect arises because the Customer failed to follow Caswick's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods and good trade practice regarding the same;
- 5.4.3 the defect arises because of improper or defective construction works, siting or other similar external influences which impact the functionality of the Goods, including in relation to the material to which the Goods are affixed or connected or the environment in which the Goods are used;
- 5.4.4 the defect arises as a result of Caswick following any instruction, drawing, design or Specification supplied by the Customer;
- 5.4.5 the Customer or any third party modifies, alters or repairs the Goods without the prior written consent of Caswick;
- 5.4.6 the defect arises as a result of fair wear and tear, wilful damage, negligence, undue stress or use, or abnormal working conditions; or
- 5.4.7 the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.5 Except as provided in this clause 5, Caswick shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out at clause 5.1.
- 5.6 These Conditions shall apply to any repaired or replacement Goods supplied by Caswick.
- 6. TITLE AND RISK**
- 6.1 Risk in the Goods shall pass to the Customer on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Customer until the earlier of:
- 6.2.1 Caswick receiving payment in full (in cash or cleared funds) for the Goods and any other goods that Caswick has supplied to the Customer, in which case title to the Goods shall pass at the time of payment of all such sums; and
- 6.2.2 the Customer reselling the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Caswick's property;
- 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Caswick's behalf from the date of delivery;
- 6.3.4 notify Caswick immediately if it becomes subject to any of the events listed in clause 14.2.2 to clause 14.2.5; and
- 6.3.5 give Caswick such information relating to the Goods as Caswick may require from time to time and allow Caswick to inspect the Goods at any time.
- 6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Caswick receives payment for the Goods. However, if the Customer resells or so uses the Goods before that time:
- 6.4.1 it does so as principal and not as Caswick's agent; and
- 6.4.2 title to the Goods shall pass from Caswick to the Customer immediately before the time at which the resale or use by the Customer occurs.
- 6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 14.2.2 to clause 14.2.5, then, without limiting any other right or remedy Caswick may have:
- 6.5.1 the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
- 6.5.2 Caswick may at any time require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product, 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.
- 7. SUPPLY OF SERVICES**
- 7.1 Caswick shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 7.2 Caswick shall use all reasonable endeavours to meet any performance dates for the Services agreed between the parties, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 Caswick warrants to the Customer that the Services will be provided using reasonable care and skill.
- 8. CUSTOMER'S OBLIGATIONS**
- 8.1 The Customer shall:
- 8.1.1 ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
- 8.1.2 co-operate with Caswick in all matters relating to the delivery of the Goods and Services;
- 8.1.3 provide Caswick, its employees, agents, consultants and subcontractors, with access to the Customer's premises and other facilities as reasonably required to provide the Services;
- 8.1.4 provide Caswick with such information and materials as Caswick may reasonably require in order to deliver the Goods and Services, and ensure that such information is complete and accurate in all material respects;
- 8.1.5 obtain and maintain all necessary licences, permissions and consents which may be required for the performance of the Contract;
- 8.1.6 comply with all applicable laws, including health and safety laws; and
- 8.1.7 comply with any additional obligations set out in the Specification.
- 8.2 If Caswick's performance of any of its obligations under the Contract is prevented or delayed by any act or omission of the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- 8.2.1 without limiting or affecting any other right or remedy available to it, Caswick shall have the right to suspend performance of the Contract until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations;
- 8.2.2 Caswick shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Caswick's failure or delay to perform any of its obligations as set out in this clause 8.2; and
- 8.2.3 the Customer shall reimburse Caswick on written demand for any costs or losses sustained or incurred by Caswick arising directly or indirectly from the Customer Default.
- 9. CHARGES AND PAYMENT**
- 9.1 The price for Goods:
- 9.1.1 shall be the price set out in the Order confirmation issued by Caswick or, if no price is quoted, the price set out in Caswick's published price list. If delivery is to take place within 4 months from the date of the Order, the applicable list prices will be as at the date of the Order, otherwise the applicable list prices will be as at the date of delivery; and
- 9.1.2 shall be exclusive of all costs of insurance and transport of the Goods, which shall (if applicable) be invoiced to the Customer unless expressly agreed otherwise by Caswick.

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9.2 Unless otherwise agreed in writing, the charges for Services shall be calculated as set out in the quotation, Order or Caswick's current price list at the date of the Contract, as the case may be. Caswick shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Caswick engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Caswick for the performance of the Services, and for the cost of any materials.

9.3 Caswick reserves the right to increase the price of the Goods or Services, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost to Caswick of performing the Contract that is due to:

9.3.1 any factor beyond the control of Caswick (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

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

9.3.3 any delay caused by any instructions of the Customer in respect of the Goods or Services, or failure of the Customer to give Caswick adequate or accurate information or instructions in respect of the Goods or Services.

9.4 Caswick shall invoice the Customer on or at any time before or after delivery of the Good or Services (as applicable). Caswick shall also be entitled to invoice the Customer at such intervals as it deems appropriate during the course of the performance of the Services.

9.5 The Customer shall pay each invoice submitted by Caswick within 30 days of the date of the invoice and in full and in cleared funds to a bank account nominated in writing by Caswick. Time for payment shall be of the essence of the Contract.

9.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by Caswick to the Customer, the Customer shall, on receipt of a valid VAT invoice from Caswick, pay to Caswick such additional amounts in respect of VAT as are chargeable on the supply of the Goods or Services at the same time as payment is due for the supply of the Goods or Services.

9.7 If the Customer fails to make a payment due to Caswick under the Contract by the due date, then, without limiting Caswick's remedies, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.7 will accrue each day at 8% a year above the Bank of England's base rate from time to time.

9.8 All amounts due from the Customer shall be paid in full without any set-off, counterclaim, deduction or withholding.

### 10. INTELLECTUAL PROPERTY RIGHTS

10.1 All Intellectual Property Rights in the Goods, or in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by Caswick.

10.2 Caswick grants to the Customer a fully paid-up, worldwide, non-exclusive, royalty-free licence to use any deliverables provided by Caswick in connection with the Services (excluding materials provided by the Customer) solely for the purpose of receiving and using such deliverables in its business.

10.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 10.2.

10.4 To the extent necessary for the performance of the Contract, the Customer grants Caswick a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to Caswick for the term of the Contract.

### 11. DATA PROTECTION

11.1 To the extent applicable to the Contract, both parties will comply with all requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 11, **Applicable Laws** means (for so long as and to the extent that they apply to Caswick) the law of the European Union, the law of any member state of the European Union and/or domestic laws applicable in the UK.

11.2 In this clause the terms **controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures** shall have the meaning given in the Data Protection Legislation. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and Caswick is the processor.

11.3 Without prejudice to the generality of clause 11.1, the Customer will ensure that where applicable it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Caswick for the duration and purposes of the Contract.

11.4 Without prejudice to the generality of clause 11.1, Caswick shall, in relation to any personal data processed in connection with the performance by Caswick of its obligations under the Contract:

11.4.1 process that personal data only in accordance with the documented written instructions of the Customer unless Caswick is required by Applicable Laws to otherwise process that personal data;

11.4.2 ensure that it has in place appropriate technical and organisational measures 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;

11.4.3 ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

11.4.4 not transfer any personal data outside of the European Economic Area unless done so in accordance with the Data Protection Legislation;

11.4.5 provide reasonable assistance to 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 solely in relation to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

11.4.6 notify the Customer without undue delay on becoming aware of a personal data breach;

11.4.7 at the cost and written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the personal data; and

11.4.8 maintain complete and accurate records to demonstrate its compliance with this clause 11 and upon reasonable notice and within normal business hours, allow the Customer to audit such records solely for the purpose of verifying compliance with this clause.

11.5 The Customer consents to Caswick appointing its subcontractors as third-party processor of personal data under the Contract. Caswick confirms that it has entered or (as the case may be) will enter into with the third-party processor a written agreement incorporating terms which are substantially similar to those set out in this clause 11.

### 12. CONFIDENTIALITY

12.1 The Customer undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of Caswick, except as permitted by clause 12.2.

12.2 The Customer may disclose Caswick's confidential information:

12.2.1 to its employees, officers or advisers who need to know such information for the purposes of exercising the Customer's rights or carrying out its obligations in connection with the Contract. The Customer shall ensure that its employees, officers or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

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

12.3 The Customer shall not use any of Caswick's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

### 13. LIMITATION OF LIABILITY AND INDEMNITY

13.1 The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

13.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for death or personal injury caused by negligence or fraud or fraudulent misrepresentation.

13.3 Subject to clause 13.2, Caswick's total liability to the Customer shall not exceed the price of the Goods or Services comprised in the Order.

13.4 Caswick shall not be liable to the Customer for any of the following:

13.4.1 loss of profits;

13.4.2 loss of sales or business;

13.4.3 loss of agreements;

13.4.4 loss of anticipated savings;

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

13.4.6 damage to goodwill;

13.4.7 indirect or consequential loss; and

13.4.8 losses incurred by the Customer arising out of or in connection with any third party claim against the Customer, including by any of the Customer's clients. For these purposes, third party claims shall include demands, fines, penalties, damages (liquidated or otherwise), actions, investigations or proceedings.

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- 13.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.6 This clause 13 shall survive termination of the Contract.
- 13.7 The Customer shall keep Caswick indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to 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 professional costs and expenses) suffered or incurred by Caswick as a result of or in connection with any act or omission of the Customer, its employees, agents or subcontractors, including any breach of the Contract, negligence or any claim brought against Caswick by a third party.
- 14. TERMINATION**
- 14.1 Without affecting any other right or remedy available to it, Caswick may terminate the Contract by giving the Customer not less than 14 days' written notice.
- 14.2 Without affecting any other right or remedy available to it, Caswick may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 14.2.1 the Customer commits a breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 5 days after receipt of notice in writing to do so;
- 14.2.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver 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;
- 14.2.3 there is a change in ownership or control of the Customer (where 'control' has the meaning given in section 1124 of the Corporation Tax Act 2010);
- 14.2.4 the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 14.2.5 the Customer's financial position deteriorates to such an extent that in Caswick's opinion the Customer's ability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 14.3 Without affecting any other right or remedy available to it Caswick may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 14.4 Without affecting any other right or remedy available to it, Caswick may suspend the supply of Goods and/or Services (including all further deliveries of Goods and/or Services to the Customer under any contract) if the Customer fails to pay any amount due under the Contract on the due date for payment, or if the Customer becomes subject to any of the events listed in clause 14.2.2 to clause 14.2.5, or if Caswick reasonably believes that the Customer is about to become subject to any of them.
- 15. CONSEQUENCES OF TERMINATION**
- 15.1 On termination of the Contract:
- 15.1.1 the Customer shall immediately pay to Caswick all of Caswick's outstanding unpaid invoices and interest and, in respect of Goods and/or Services supplied but for which no invoice has been submitted, Caswick shall be entitled submit an invoice, which shall be payable by the Customer immediately on receipt;
- 15.1.2 the Customer shall return any of Caswick's materials, equipment, documents and other property and any deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then Caswick may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 15.2 Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 15.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.
- 16. GENERAL**
- 16.1 **Force Majeure.** Caswick shall not 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 including acts of God, flood, drought, earthquake or other natural disaster; epidemic and pandemic; terrorist attack, war, civil commotion or riots; any law or any action taken by a government or public authority, the imposition of sanctions or breaking off of diplomatic relations; nuclear, chemical or biological contamination; collapse of buildings, fire, explosion or accident; any labour or trade dispute or industrial action; non-performance by suppliers or subcontractors or interruption or failure of utility service (**a Force Majeure Event**). In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 6 weeks, the Customer may terminate this Agreement by giving 14 days' written notice to Caswick.
- 16.2 **Assignment and other dealings.** Caswick may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. The Customer shall not assign, transfer, mortgage, charge, subcontract, 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 Caswick.
- 16.3 **Notices.** Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 16.3.1 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
- 16.3.2 sent by email to its main email address with a copy to follow by post within a reasonable period; and
- 16.3.3 deemed to have been received:
- 16.3.3.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- 16.3.3.2 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 at the time recorded by the delivery service; and
- 16.3.3.3 if sent by email, 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 16.3.3.3, business hours means 9.00am to 5.00pm on a Business Day.
- 16.3.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 16.4 **Severance.** If any provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision shall not affect the validity and enforceability of the rest of the Contract.
- 16.5 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.6 **No partnership or agency.** 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.
- 16.7 **Entire agreement.**
- 16.7.1 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.
- 16.7.2 Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract.
- 16.8 **Third party rights.** 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.
- 16.9 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 16.10 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 16.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.