



OPENHOUSE PRODUCTS LIMITED

TERMS AND CONDITIONS

The customer's attention is drawn in particular to the provisions of clause 9.

1. INTERPRETATION

1.1. **Definitions.** In these Conditions, the following definitions apply:

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

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 12.6.

Contract: the contract between Openhouse and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from Openhouse.

Force Majeure Event: has the meaning given in clause 11.

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

Order: the Customer's order for the Goods, as set out:

- in the Customer's purchase order form;
- in the Customer's written acceptance of Openhouse's quotation;
- in the purchase order summary, if ordered through the Website; or
- overleaf, as the case may be.

Specification: any Specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and Openhouse.

Supplier: OPENHOUSE PRODUCTS LIMITED (registered in England and Wales with company number 02749769) whose registered office is 125 Craven Street, Birkenhead, Merseyside CH41 4BW, United Kingdom. In this document, the supplier will henceforth be known as Openhouse.

Website: Openhouse's website at www.openhouseproducts.com.

1.2. **Construction.** In these Conditions, the following rules apply:

- a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).



- b) A reference to a party includes its personal representatives, successors or permitted assigns.
- c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- d) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- e) A reference to **writing** or **written** includes faxes and emails.

2. BASIS OF CONTRACT

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

2.2. The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.

2.3. The Order shall only be deemed to be accepted when Openhouse issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4. Minimum Order Quantity

Unless otherwise agreed in writing by Openhouse, a minimum order quantity of five (5) units shall apply to all UK-manufactured products. Openhouse reserves the right to reject or amend any Order that does not meet the applicable minimum order quantity. Exceptions may be made at Openhouse's discretion, including for selected customers based on trading history, annual spend or existing commercial arrangements.



2.5. No Purchase Order – No Sales Order

Openhouse operates a “No Purchase Order – No Sales Order” policy. A valid and authorised purchase order must be received from the Customer before Openhouse processes, accepts or progresses any Order. Openhouse shall not be liable for any delay, non-processing or non-fulfilment of an Order where a valid purchase order has not been provided.

2.6. Customer responsibility

The Customer is responsible for ensuring that all purchase orders are complete, accurate and match any quotation, Specification or agreed pricing. Any delay caused by missing, incorrect or amended purchase order details shall not be the responsibility of Openhouse.

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

2.8. Any samples, drawings, descriptive matter, or advertising produced by Openhouse and any descriptions or illustrations contained in Openhouse's Website, catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

2.9. A quotation for the Goods given by Openhouse shall not constitute an offer. A quotation shall only be valid for a period of 40 Business Days from its date of issue.

2.10. Order Amendments

Any request by the Customer to amend an Order (including changes to quantity, Specification or delivery dates) must be agreed in writing by Openhouse. Openhouse reserves the right to adjust pricing, lead times and any other relevant terms to reflect such changes. Where work has already commenced, additional costs may apply.



2.11. Right to Refuse Orders

Openhouse reserves the right to refuse or decline any Order at its sole discretion.

3. GOODS

3.1. The Goods are described on the Website and in catalogues as modified by any applicable Specification or 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 Openhouse against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Openhouse in connection with any claim made against Openhouse for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Openhouse's use of the Specification. This clause 3.2 shall survive termination of the Contract.

3.3. Openhouse reserves the right to amend the Specification of the Goods if required by any applicable statutory or regulatory requirements.

3.4. Customer Approval

Where Goods are manufactured to a design, artwork or Specification requiring Customer approval, production will not commence until written approval is received. Once approved, the Customer accepts full responsibility for the accuracy of the approved materials.

3.5. Intellectual Property

a) Unless expressly agreed otherwise in writing, all intellectual property rights in or arising out of the design, development or manufacture of the Goods, including but not limited to designs, concepts, drawings, specifications, prototypes and engineering developments, shall remain the sole property of Openhouse.



- b) Where Goods are developed based on a Customer brief, feedback or performance requirements, ownership of any resulting design and associated intellectual property shall remain with Openhouse unless otherwise agreed in writing.
- c) No transfer or assignment of intellectual property rights shall take effect unless expressly agreed in writing and signed by Openhouse.
- d) The Customer shall not copy, reproduce, reverse engineer, or otherwise use any designs or intellectual property belonging to Openhouse for any purpose other than as permitted under the Contract.

4. DELIVERY

4.1. Openhouse shall ensure that:

- a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- b) if Openhouse requires the Customer to return any packaging materials to Openhouse, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as Openhouse shall reasonably request. Returns of packaging materials shall be at Openhouse's expense.

4.2. Openhouse shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after Openhouse notifies the Customer that the Goods are ready.

4.3. Where the Customer requires Openhouse to use its couriers, whether arranged by the Customer or Openhouse, the Delivery Location shall be 125 Craven Street, Birkenhead, Merseyside CH41 4BW.

4.4. Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.



- 4.5. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Openhouse shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Openhouse with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.6. If Openhouse fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Openhouse shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Openhouse with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.7. If the Customer fails to accept delivery of the Goods within three Business Days of Openhouse notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or Openhouse's failure to comply with its obligations under the Contract:
- a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which Openhouse notified the Customer that the Goods were ready; and
 - b) Openhouse shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses, including storage, handling and insurance.
- 4.8. If 10 Business Days after the day on which Openhouse notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, Openhouse may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 4.9. The Customer shall not be entitled to reject the Goods if Openhouse delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata



adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.

4.10. Openhouse 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.

4.11. For any goods being exported from the UK, these will be quoted on freight charges only, based on DPU (Delivered at Place Unloaded) terms as per Incoterms 2020, which will be stated on the commercial invoice at point of shipment. Under DPU, the seller bears all responsibilities, including arranging and transporting the goods, up until the goods are unloaded from the arriving means of transport at the named place of destination. The buyer bears all risks and costs from that point on to the final destination, including but not limited to, DUTY/VAT, Import Customs Clearance and Taxes which are chargeable.

4.12. **Customer Delay**

Openhouse reserves the right to reschedule production and delivery where the Customer causes delay, including but not limited to failure to provide a purchase order, approvals, or required information. Any resulting costs may be charged to the Customer.

5. **QUALITY**

5.1. Unless otherwise agreed in writing by Openhouse, Openhouse warrants that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), the Goods shall:

- a) conform in all material respects with their description and any applicable Specification;
- b) be free from material defects in design, material and workmanship; and
- c) be fit for any purpose held out by Openhouse.



5.2. Subject to clause 5.3, if:

- a) the Customer gives notice in writing to Openhouse during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
- b) Openhouse is given a reasonable opportunity of examining such Goods; and
- c) the Customer (if asked to do so by Openhouse) returns such Goods to Openhouse's place of business at the Customer's cost,

Openhouse shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3. Openhouse shall not be liable for Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:

- a) the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;
- b) the defect arises because the Customer failed to follow Openhouse's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- c) the defect arises as a result of Openhouse following any drawing, design or Specification supplied by the Customer;
- d) the Customer alters or repairs such Goods without the written consent of Openhouse;
- e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- f) the Goods differ from their description **or** the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- g) Except as provided in this clause 5, Openhouse shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- h) The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- i) These Conditions shall apply to any repaired or replacement Goods supplied by Openhouse.



5.4. Warranty Conditions

- a) The warranty set out in clause 5.1 applies for a period of 12 months from the date of delivery.
- b) This warranty covers defects proven to be the result of faulty materials or workmanship.
- c) This warranty does not apply to defects or damage resulting from, but not limited to:
 - fair wear and tear;
 - misuse, abuse or neglect;
 - accidental damage;
 - incorrect use, installation or storage;
 - unauthorised repairs, alterations or modifications.
- d) Where defects are found not to be covered under this warranty, Openhouse may offer repair services at the Customer's cost. Any such costs will be communicated and agreed prior to work being carried out.
- e) The Customer must provide proof of purchase and return the Goods for inspection before any warranty claim can be assessed.
- f) This warranty applies only to the original purchaser and does not affect the Customer's statutory rights.

6. TITLE AND RISK

6.1. The 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:

- a) Openhouse receives payment in full (in cash or cleared funds) for the Goods and any other goods that Openhouse has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
- b) the Customer resells 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 Openhouse'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 from the date of delivery;
 - 6.3.4. notify Openhouse immediately if it becomes subject to any of the events listed in clause 8.2; and
 - 6.3.5. give Openhouse such information relating to the Goods as Openhouse may require from time to 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 Openhouse receives payment for the Goods. However, if the Customer resells the Goods before that time:
- a) it does so as principal and not as Openhouse's agent; and
 - b) title to the Goods shall pass from Openhouse to the Customer immediately before the time at which resale 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 8.2, then, without limiting any other right or remedy Openhouse may have:
- a) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - b) Openhouse may at any time:
 - I. require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
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 - II. 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. PRICE AND PAYMENT

- 7.1. The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in Openhouse's published price list in force as at the date of delivery.



- 7.2. Openhouse may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- a) any factor beyond Openhouse's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - c) any delay caused by any instructions of the Customer or failure of the Customer to give Openhouse adequate or accurate information or instructions.
- 7.3. The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.
- 7.4. The price of the Goods is exclusive of amounts in respect of value added tax (**VAT**). The Customer shall, on receipt of a valid VAT invoice from Openhouse, pay to Openhouse such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 7.5. Openhouse may invoice the Customer for the Goods on or at any time after the completion of delivery.
- 7.6. The Customer shall pay the invoice in full and in cleared funds as per the agreed payment terms. Payment shall be made to the bank account nominated in writing by Openhouse. Time of payment is of the essence.
- 7.7. If the Customer fails to make any payment due to Openhouse under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 8% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.



7.8. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Openhouse may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Openhouse to the Customer.

7.9. Credit Terms

Openhouse reserves the right to withdraw credit terms, require payment in advance, or suspend supply at any time where the Customer's financial position gives reasonable cause for concern.

8. TERMINATION AND SUSPENSION

8.1. If the Customer becomes subject to any of the events listed in clause 8.2, Openhouse may terminate the Contract with immediate effect by giving written notice to the Customer.

8.2. For the purposes of clause 8.1, the relevant events are:

- a) the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other



than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;

- d) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- e) (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- f) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- g) (being an individual) the Customer is the subject of a bankruptcy petition or order;
- h) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.2(a) to clause 8.2(f) (inclusive);
- j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- k) the Customer's financial position deteriorates to such an extent that in Openhouse's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
- l) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

8.3. Without limiting its other rights or remedies, Openhouse may suspend provision of the Goods under the Contract or any other contract between the Customer and Openhouse if the Customer becomes subject to any of the events listed in clause 8.2(a) to clause 8.2(l), or Openhouse reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.



8.4. On termination of the Contract for any reason the Customer shall immediately pay to Openhouse all of Openhouse's outstanding unpaid invoices and interest.

8.5. Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

8.6. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

9. ORDER CANCELLATION AND RETURNS

All orders are accepted in good faith and constitute a binding contract between the parties. Cancellation requests are subject to this clause 9 and must be agreed in writing by Openhouse. Where applicable, the Customer shall be liable for all costs incurred up to the point of cancellation.

9.1. Medicines and Medical Gas:

All medicines and medical gases are sold in conjunction with the regulations laid out by the MHRA (Medicines and Healthcare Products Regulatory Agency)

- a) No order for medicines or medical gases can be cancelled by any customer if the product has left the control of Openhouse Products Ltd.
- b) Any orders received by Openhouse Products Ltd for a medicine or medical gas ordered as a non-stocked (purchase to order) item cannot be cancelled.
- c) Any order that the customer wishes to cancel, the customer is liable for all associated costs.
- d) Any customer that has placed an order for any medicine or medical gas and wishes to still cancel an order, the customer is liable for a returns collection fee, Openhouse Products Ltd will destroy the items ordered and a charge will be levied for the destruction of £100.00 plus the carriage.

9.2. Custom Manufactured Products:

- a) Design:
 - i. Once design work, material procurement or production has commenced, orders for custom manufactured goods cannot be



cancelled without the written agreement of Openhouse, and all costs incurred will be chargeable to the Customer.

b) Production:

- I. Any order that has entered production cannot be cancelled, and all costs incurred will be chargeable to the Customer.

c) Overseas production:

- I. No order placed with the Openhouse Products overseas division can be cancelled if production has started. An order that has been shipped can't be cancelled and the order payment must be settled in full. A cancelled order or delayed delivery order (customer delay) may incur storage costs, which is at the discretion of the sales team, and can only be agreed in writing. Any cancellation of an order for this division where raw materials have been purchased for the manufacture of any item will be charged at cost, if that material can't be used on other products.
- II. The customer, in the event of any cancellation, is liable for all transportation costs.
- III. A cancelled order based on the fault of Openhouse Products will be reviewed and may be considered acceptable and will be communicated to all parties in writing.
- IV. Any faulty goods must be returned for inspection before any resolution can be met.

9.3. Standard Stock Items:

- a) Any standard stock item can be returned to Openhouse Products at your own costs. Any order cancelled for stock items will only be refunded once the item or items have been checked to make sure that the item is in perfect condition. All returns are subject to prior written approval by Openhouse.
- b) No sale item can be returned under any circumstances, unless by written consent of the sales manager.
- c) Items cancelled that anybody wishes to return MUST contact the office in any format and ask for a returns number. Openhouse don't charge a restocking fee, but all cancelled orders to be returned must be at the customers cost. Once received and checked, a full refund will be processed.



- d) Collection may be available by the Openhouse delivery team if they are in the area but can only be arranged through the office.

10. LIMITATION OF LIABILITY

10.1. Nothing in these Conditions shall limit or exclude Openhouse's liability for:

- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- b) fraud or fraudulent misrepresentation;
- c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- d) defective products under the Consumer Protection Act 1987; or
- e) any matter in respect of which it would be unlawful for Openhouse to exclude or restrict liability.

10.2. Subject to clause 9.1:

- 10.2.1. Openhouse shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 10.2.2. Openhouse's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the value of the Goods supplied under the relevant Contract.

11. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether



involving its own workforce or a third party's), failure of energy sources or transport network, shortages of raw materials, supplier failure, global supply chain disruption, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

12. GENERAL

12.1. Assignment and other dealings.

- a) Openhouse may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Openhouse.

12.2. Notices.

- a) 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 (if it is a company) or its principal place of business (in any other case) 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, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.
- b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2; 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; 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.



- c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.3. **Severance.**

- a) If any provision or part-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 under this clause shall not affect the validity and enforceability of the rest of the Contract.
- b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.4. **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it 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. For the avoidance of doubt, no failure or delay in enforcing these Conditions shall be deemed acceptance of any variation to them.

12.5. **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

12.6. **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by Openhouse.



12.7. **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

12.8. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

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