

RAAR Associates Limited Supply Terms

Please note: A larger font version of these terms is available upon written request to RAAR Associates.

1. Definitions

1.1 The following defined terms shall have the meaning specified alongside them:

"Additional Services" any services to be provided by RAAR upon Customer's request in addition to the supply and delivery of Product;

"Agreement" these Terms, any attachment to these Terms and any documentation referable to these Terms including without limitation Customer Requirements, Drawing, Specification and Order Confirmation (as applicable);

"Change Request" a written request for a change made by Customer or RAAR;

"Charges" the fees and expenses [specified in an Order Confirmation] payable to RAAR by Customer in consideration of the supply of Product and any other goods or services to be supplied by RAAR;

"Customer" the party [named as such] in an attached Order Confirmation;

"Customer Requirements" the instructions (in any form of media and whether written or oral) supplied by Customer to RAAR and giving details of Customer's requirement for Products including for example and without limitation Product size and dimensions and an indication of Customer's intended use of Product;

"Design" the design which may include, without limitation, the production by RAAR of Drawing and Specification by reference to Customer Requirements (as applicable);

"Drawing" any document referable to these Terms which gives illustrations of and/ or technical data concerning Product;

"IP Right" any copyright, patent, registered design, trademark or other intellectual property right (or applications thereof) of whatever nature subsisting anywhere in the world;

"Order Confirmation" any document [named as such] and referable to these Terms;

"Product" any goods requested by Customer to be supplied by RAAR;

"Quotation" any RAAR released quote referable to these Terms which may give an indicative, non-binding indication of certain details of Customer's Order including, without limitation, Charges;]

"RAAR" RAAR (UK) Limited (registered no. 2022237) whose registered office is at 77A High Street South, Dunstable, Bedfordshire LU6 3SF.

"Rates" RAAR's prevailing rates for requested goods and services which are available upon written request to RAAR;]

"Specification" a RAAR released document referable to these Terms which gives details of Product; and

"Terms" these RAAR Associates Limited Supply Terms.

1.2 In this Agreement:

1.2.1 The singular includes the plural and vice versa;

1.2.2 References to gender include references to all genders;

1.2.3 Unless otherwise stated, references to clauses are to clauses of this Agreement;

1.2.4 The clause headings are for reference only and shall not affect the construction or interpretation of this Agreement;

1.2.5 References to statutes, any statutory instrument, regulation or order shall be construed as a reference to such statute, statutory instrument, regulation or order as amended or re-enacted from time to time.

[1.3 In the event of conflict between provisions comprised in these Terms and provisions comprised in any related documentation (including without limitation any Quotation or Order Confirmation) the provisions comprised in these Terms shall prevail.]

2. Scope of Agreement

2.1 In consideration of payment by Customer of the Charges and subject to Customer discharging its obligations under this Agreement, RAAR shall supply Product in accordance with the terms of this Agreement.

2.2 Any order placed by Customer is subject to express written acceptance by RAAR and no contract shall be formed until an Order Confirmation has been signed by both parties.

2.3 These Terms shall apply to all current and future Customer requests for RAAR goods and/or services (unless confirmed otherwise in writing by RAAR).

3. Customer Requirements

3.1 Customer shall indicate its requirements for Product by submitting to RAAR such documentation and information as RAAR requires to enable RAAR to supply Product.

3.2 RAAR may indicate at any stage before an Order Confirmation is signed that Customer Requirements are deficient and/ or insufficient and Customer shall as soon as reasonably practicable rectify such deficiency and/ or insufficiency to RAAR's satisfaction.

3.3 Customer shall be solely responsible for the accuracy of Customer Requirements and RAAR shall not be under any obligation to indicate or correct errors in Customer Requirements.

3.4 Customer acknowledges that RAAR will supply Product at the request of Customer and that it is Customer's responsibility to determine whether Product is suitable for its requirements.

3.5 The supply of Product is subject to Customer at all times discharging its obligations under this Agreement.

3.6 Customer shall be solely responsible for satisfying itself as to the suitability of any third party contractor or sub-contractor proposed, recruited or engaged by RAAR (with Customer's approval) to perform any work in connection with this Agreement and RAAR shall be under no liability in respect of any act or omission of any such third party.

4. Quotation

4.1 Upon approval of Customer Requirements by RAAR, RAAR may supply to Customer a Quotation indicating certain details in respect of Product.

4.2 The parties expressly agree that any Quotation supplied by RAAR shall be indicative only and not binding in respect of the matters specified.

5. Design, Drawing and Specification

5.1 Where appropriate, RAAR shall undertake Design of Product by reference to Customer Requirements and with reasonable skill and care.

5.2 Upon completion of Design, RAAR may (if appropriate) supply to Customer any Drawing and Specification for approval.

5.3 Customer shall use all reasonable endeavours to indicate approval or, otherwise, matters requiring completion and/ or clarification within [seven (7) days] of receipt of any Drawing or Specification.

5.4 If Customer notifies any matters requiring completion and/ or clarification in accordance with clause 5.3, RAAR shall use reasonable endeavours to supply revised Drawing and/ or Specification (as applicable) within [seven (7) days] of notification.

5.5 The parties shall then repeat the procedure in clauses 5.2, 5.3, 5.4 and 5.5 until both parties approve Drawing and/ or Specification (as applicable).

5.6 In any event Customer shall be deemed to have approved and accepted the latest version of the Drawing and the Specification issued and/ or approved by RAAR at the date upon which duly authorised representatives of both parties sign an Order Confirmation.

6. Change Control

6.1 If either party identifies a requirement for a change (including without limitation a change to Order Confirmation, Product or Charges) it shall send a Change Request to the other party detailing the change requirements.

6.2 If a Change Request is sent by RAAR, the Change Request shall state the effect such a change shall have (including without limitation the effect upon Order Confirmation, Product or Charges). RAAR shall use reasonable endeavours to supply the necessary details within [seven (7) days] from receipt of the Change Request.

6.3 If a Change Request is sent by Customer, the receipt of the Change Request by RAAR will constitute a request to RAAR to state in writing the effect such a change shall have (including without limitation the effect upon Order Confirmation, Product or Charges). RAAR shall use reasonable endeavours to supply the necessary details within [seven (7) days] from receipt of the Change Request.

6.4 The parties will then decide whether or not to implement the change. If the change is implemented, the amended order confirmation, product and charges (and any other matters as appropriate) shall then become the Order Confirmation, Product and Charges (as defined) and be deemed incorporated into this Agreement.

7. Acceptance Tests

7.1 RAAR may specify and undertake tests of Product to check its performance in accordance with Customer Requirements (and Specification if applicable) ("**Acceptance Tests**").

7.2 RAAR may charge Customer additional fees for undertaking such Acceptance Tests which may include, without limitation, fees incurred by any third party involved in Acceptance Tests.

7.3 Upon Product passing the Acceptance Tests RAAR shall either notify Customer that Product is ready for delivery to the delivery address specified in an Order Confirmation or (at its discretion) deliver Product.

8. Delivery

8.1 RAAR shall use all reasonable endeavours to deliver Product upon any delivery date indicated in an Order Confirmation or as soon thereafter as is possible. Customer acknowledges that time for performance by RAAR of any of its obligations under this Agreement shall not be of the essence.

8.2 If delivery will be later than the delivery date indicated in an Order Confirmation RAAR will use reasonable endeavours to give Customer not less than 24 hours notice of the actual delivery date.

8.3 Upon delivery Customer shall make available to RAAR (or RAAR's delivery agent) free of charge such labour and equipment as is required to effect delivery of Product.

8.4 Upon completion of delivery Customer shall be solely responsible for the removal and disposal of all packing cases and other containers in which Product was delivered.

8.5 RAAR shall use reasonable endeavours to deliver the quantity of Product indicated in an Order Confirmation but due to the nature of Product Customer acknowledges that it may be impracticable to deliver the quantity of Product indicated in an Order Confirmation and therefore RAAR reserves the right to deliver (and Customer will accept) between ninety per cent (90%) and one hundred and ten per cent (110%) of the quantity of Product indicated in an Order Confirmation.

8.6 If Customer fails to accept the whole or any part of any order of Product then (in addition to the other rights and remedies provided by this Agreement) Customer agrees that RAAR shall be entitled (and Customer grants a limited licence (and will use best endeavours to secure a limited licence from any third party as necessary) in respect of any IP Rights comprised in Product for the purpose set out in this clause 8.6) to sell or otherwise dispose of such Products in its sole discretion.

9. Title to and Risk in Product

9.1 Title to Product shall not pass to Customer until the date that the Charges (and any additional sums payable by Customer pursuant to an Order Confirmation and/ or this Agreement) and value added tax thereon have been paid in full to RAAR ("**Payment Date**").

9.2 Until the Payment Date Customer shall not be entitled to sell, transfer, lease, charge, assign by way of security or otherwise deal in or encumber Product and the relationship between RAAR and Customer in respect of Product including any proceeds of sale or other consideration therefor shall be a fiduciary one.

9.3 If either:

9.3.1 Customer fails to effect payment in full of all sums due hereunder by the due date; or

9.3.2 prior to the Payment Date Customer convenes a meeting of its creditors or a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) Customer's creditors or if Customer is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of Customer or if a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of Customer or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction)

then RAAR (without prejudice to any other legal remedies it may have) shall at any time thereafter be entitled to enter upon any premises under Customer's control (without notice to Customer) and remove Product.

9.4 If in breach of clause 9.3.1 above Customer sells Product prior to the Payment Date then any proceeds of sale in respect thereof and all rights arising under or in respect of said sale shall be held (in the case of the proceeds of sale in a separate account) by Customer as trustee for RAAR.

9.5 Risk in Product shall pass to Customer upon delivery.

9.6 With effect from delivery up to and including the Payment Date Customer shall insure Product for its full replacement value with a reputable insurance company and shall upon request provide a copy of the insurance certificate to RAAR which certificate shall have RAAR endorsed thereon as loss payee.

10. Charges

10.1 The Charges shall include the cost of supply of Product and delivery of Product only.

10.2 The Charges shall not include:

10.2.1 any special delivery costs properly incurred by RAAR which costs shall be separately invoiced to Customer and shall be payable (together with value added tax thereon) in accordance with this Agreement; and

10.2.2 value added tax which shall be payable by Customer in the manner and at the rate from time to time prescribed by law; and

10.2.3 any fees for Additional Services.

10.3 Any Additional Services supplied by RAAR at Customer's request shall be charged in accordance with Charges set out in an Order Confirmation or otherwise in accordance with Rates calculated upon a time and materials basis.

11. Terms of Payment

11.1 The Charges, Rates and other sums are expressed exclusive of all duties and taxes including without limitation value added tax which shall be paid by Customer at the rate and in the manner provided by the law governing this Agreement.

11.2 Payment of sums due from Customer to RAAR shall be made within thirty (30) days of the receipt of an invoice from RAAR. All payments hereunder shall be made in Pounds Sterling.

11.3 In the event that Customer fails to pay any sum by the due date RAAR reserves the right to charge interest on the outstanding amount in accordance with the Late Payment of Commercial Debts Regulations 2002 from the date the payment became due until actual payment is made (irrespective of whether the date of payment is before or after any judgment or award in respect of the same).

11.4 Notwithstanding clause 11.3, if Customer fails to pay any sum by the due date RAAR may at its option, and without prejudice to any other remedy at any time after payment has become due, terminate or suspend performance of this Agreement.

11.5 If RAAR shall terminate this Agreement for any reason, any sums (including interest for late payment) will immediately become payable in full.

12. Warranty

12.1 In the event that Customer discovers a material defect in Product workmanship or materials such that Product materially fails to accord to Customer Requirements (and Specification if applicable) and notifies RAAR of the material failure within [seven (7) days] of delivery of Product ("**Warranty Period**"), RAAR shall at its sole option either refund the Charges or an equitable proportion of the Charges (as applicable) or use all reasonable endeavours to correct the material failure provided that such material failure has not been caused by any breach by Customer of its obligations hereunder or by use of Product in any manner not notified to RAAR in writing within Customer Requirements.

[12.2 RAAR will supply Product in accordance with BS6001-1:1999 and with an Acceptance Quality Limit (as defined in BS6001-1:1999) of 2.5 for major defects and 4 for minor defects.]

12.3 Except as expressly provided in this Agreement no warranty, condition, undertaking or term, expressed or implied, statutory or otherwise as to the condition, quality, performance or fitness for purpose of any goods or services (including without limitation Products) provided hereunder will be assumed by RAAR and except as expressly provided in this Agreement all such warranties, conditions, undertakings and terms are hereby excluded.]

13. Liability

13.1 Neither party excludes or limits liability to the other party for death or personal injury or any breach of any obligations imposed by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.

13.2 The aggregate liability of RAAR in respect of breaches of this Agreement or of any other duty to Customer or for negligence in connection with the subject matter of this Agreement (whether arising before, during or after the date of this Agreement) shall be limited to the Charges paid by Customer to RAAR in respect of the order giving rise to the liability provided that in no event shall RAAR be liable to Customer for any of the following however and whenever arising:

13.2.1 loss of profits, business, revenue, data, goodwill or anticipated savings; and/ or

13.2.2 indirect or consequential loss or damage.

13.3 Each party agrees that the limitations of liability contained in this clause 13 have been agreed between the parties in the context of the other provisions of this Agreement and satisfy the requirement of reasonableness within the meaning of sub-section 2(2) and Section 11 of the Unfair Contract Terms Act 1977.

13.4 The parties expressly agree that should any limitation or provision contained in this Agreement be held to be invalid under any applicable statute or rule of law it shall to that extent be deemed omitted but if any party thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out herein.

14. Copyright, Patent, Trademarks and other Intellectual Property Rights

14.1 Customer acknowledges that (save as to IP Rights identified within Customer Requirements which includes without limitation any trademarks, logos and brand names comprised in Product) any and all of the IP Rights subsisting in or used in connection with the Drawing, Specification, Additional Services and Product shall be and shall remain the sole property of RAAR and Customer shall not at any time dispute such ownership.

14.2 In the event that new inventions, designs or processes evolve in performance of or as a result of this Agreement, Customer acknowledges that the same shall be the property of RAAR unless otherwise agreed in writing by RAAR.

14.3 Customer warrants that it is the owner (or licensee) of all IP Rights identified within Customer Requirements which includes without limitation any trademarks, logos and brand names comprised in Product and shall indemnify RAAR fully against all liabilities, costs and expenses which RAAR may incur as a result of preparations made or work undertaken in accordance with Customer Requirements involving infringement of any IP Rights.

15. Confidential Information

15.1 RAAR and Customer shall use all reasonable endeavours to keep confidential (and ensure that their employees and agents keep confidential) all information received by them relating to any part of the business and affairs of the other party and, in the case of Customer, any aspect of the Drawings, Specification, Additional Services or Product designated as confidential by RAAR provided that these obligations shall not apply to information which is:

15.1.1 or becomes publicly known through no wrongful act of the party concerned; or

15.1.2 required to be disclosed by an order of law or other binding authority; or

15.1.3 disclosed to any adviser of either party bound by a professional duty of confidentiality.

16. Force Majeure

16.1 RAAR will not be under any liability to Customer for, damage, delay or any other matters of that nature whatsoever arising out of war, rebellion, civil commotion, strikes, lock outs and industrial disputes, fire, explosion, earthquake, acts of God, flood, drought, or bad weather or the requisitioning or other act or order by any Government department, council or other constituted body ("**Force Majeure**"), provided always that RAAR will use all reasonable endeavours (but without an obligation to incur cost) to minimise the period of disruption caused by the Force Majeure.

17. Termination and Suspension

17.1 Notwithstanding any other provisions herein contained, and without prejudice to any other rights RAAR may have, RAAR may forthwith terminate this Agreement by written notice to Customer if any of the following events shall occur:

17.1.1 If Customer commits any breach of this Agreement and fails to remedy such breach (unless it is a breach which entitles RAAR to terminate this Agreement immediately) or insofar as such breach is not capable of remedy to furnish adequate compensation therefor) within thirty (30) days after receiving written notice requiring it to do so;

17.1.2 If Customer becomes bankrupt or compounds or makes any arrangement with or for the benefit of its creditors or (being a company) enters into compulsory or voluntary liquidation or amalgamation (other than for the purpose of a bona fide reconstruction or amalgamation without insolvency) or has a receiver or manager appointed of the whole or substantially the whole of its undertakings or if any distress or execution will be threatened or levied upon any property of Customer or if Customer is unable to pay its debts in accordance with the law relating to this Agreement; or

17.1.3 A Force Majeure continues for a period of more than 3 months.

17.2 Without prejudice to any right of termination RAAR shall be entitled by immediate notice to suspend performance of some or all of the obligations specified in this Agreement upon the occurrence of circumstances specified in clause 17.1, and this Agreement will in any event be deemed suspended in the event of Force Majeure.

17.3 Termination or suspension of this Agreement will be without prejudice to any accrued rights or obligations of either party.

18. Data Protection

18.1 Each party warrants to the other that it shall, in connection with this Agreement, comply with the provisions of the Data Protection Act 1998 and any modification, consolidation or re-enactment thereof and shall indemnify the other party against any reasonable losses, liabilities and costs which it suffers or incurs as a result of a breach of this clause.

18.2 RAAR processes all personal information ("**Information**") as defined in the Data Protection Act 1998 ("**DP Act**") in accordance with applicable data protection law.

18.3 By submitting Information to RAAR Customer (and each individual as applicable) consent to such Information being processed by RAAR in accordance with this clause 18. If Information changes Customer (and each individual as applicable) are responsible for informing RAAR of the change so that RAAR can update its records.

18.4 RAAR will use Information as follows:

(i) To supply goods and services as requested by Customer including such transfer of Information to employees, agents and third parties as required for this purpose.

(ii) For RAAR internal administration purposes.

(iii) To market RAAR goods and services to Customer (and each individual as applicable).

RAAR reserves the right to:

(iv) Transfer RAAR business assets (which include Information) on sale or merger of the whole or part of the RAAR business.

(v) Transfer Information as required to obtain legal advice, comply with legal requirements, protect RAAR rights and property, and the safety of RAAR employees, clients, suppliers and others.

[(vi) Transfer Information outside the European Economic Area to [] as is necessary for the purposes listed in this clause 18.]

19. Entire Agreement

19.1 This Agreement:

19.1.1 represents the whole agreement and understanding between the parties in respect of the matters referred to herein; and

19.1.2 shall, except in the case of fraud, override and no reliance shall be placed upon any other verbal or written representations, warranties or understandings in respect of the subject matter of this Agreement including, without limitation, any conflicting provisions of any terms of purchase notified by Customer.

19.2 The remedies available to the parties are exclusively those available under this Agreement.

19.3 The parties acknowledge that they have expressly negotiated and agreed the terms of this clause 19.

20. General

20.1 No amendment to this Agreement shall be binding unless made in writing and signed by duly authorised representatives of both parties.

20.2 Customer shall not assign, charge or otherwise transfer to a third party any of its rights or obligations hereunder without the prior written consent of RAAR.

20.3 No waiver of any breach of the other party's obligations hereunder shall represent a waiver of the waiving party's rights hereunder or of any subsequent breach.

20.4 The parties respectively shall and shall procure that any other necessary party shall execute and/ or do all such documents, acts and things (as applicable) as may reasonably be required on or subsequent to completion of this Agreement for securing each of the obligations of the parties under this Agreement.

20.5 None of the provisions of this Agreement are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on a person who is not named as a party to this Agreement.

20.6 Any notice to effect suspension or termination of the whole or any part of this Agreement:

(i) shall be made in writing and either delivered personally or sent by first class recorded delivery to Customer's address as set out in this Agreement or such other address as Customer may specify by notice in writing to RAAR;

(ii) in the absence of evidence of earlier receipt, notice shall be deemed to have been duly given:

(a) if delivered personally, when left at the address referred to in 20.6(i); or

(b) if sent by first class recorded delivery, at the time recorded by the delivery agent.

20.7 For the avoidance of doubt electronic mail shall be deemed to be "writing" for the purpose of this Agreement but this shall not prejudice the express requirements for delivery of notices under clause 20.6.

20.8 If any provision of this Agreement is held to be void or unenforceable in whole or in part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.

20.9 This Agreement shall be binding on and shall continue for the benefit of the permitted successors and permitted assigns (as the case may be) of each of the parties hereto.

20.10 All provisions of this Agreement shall so far as they are capable of being performed and observed continue in full force and effect notwithstanding any expiry or earlier termination.

21. Applicable Law

21.1 This Agreement shall be governed by and construed in accordance with English law and each party to this Agreement submits to the exclusive jurisdiction of the English courts.