

# Standard Terms and Conditions of Sale

These Terms and Conditions of Sale, together with the Order Confirmation, set out the terms on which Paragraf supplies its Products to Customer.

## 1 Interpretation and Definitions

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

**Completion of Delivery:** has the meaning given to it in clause 4.2.

**Conditions:** these terms and conditions of sale as amended.

**Confidential Information:** means all information in any medium or format (including written, oral, visual or electronic, and whether or not marked or described as "confidential"), together with all copies, which relates to a party (the "**Disclosing Party**") or to its employees, officers, customers or suppliers, and which is directly or indirectly disclosed by the Disclosing Party to the other party (the "**Recipient Party**") in the course of their dealings relating to a Contract, whether before or after the date of the Contract. However, the following information is not "Confidential Information" for the purposes of these Conditions: **(a)** information which is in the public domain other than as a result of breach of these Conditions or any separate confidentiality undertaking between the parties;

**(b)** information which the Recipient Party received, free of any obligation of confidence, from a third party which itself was not under any obligation of confidence in relation to that information; and

**(c)** information which was developed or created independently by or on behalf of the Recipient Party.

**Customer:** the entity who purchases the Products from Paragraf, as set out in the Order Confirmation.

**Defect:** a material non-conformance of the Product with the Specification.

**Delivery Address:** means the address for delivery specified in the Order Confirmation.

**Force Majeure Event:** has the meaning given to it in clause 16.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and related rights, trade marks, service marks and business names (whether registered or unregistered), and rights to apply for registration, and proprietary rights in domain names, rights in get-up, 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.

**Order:** the Customer's order for the Products, as set out in Customer's purchase order or in the Customer's written acceptance of Paragraf's quotation (as applicable).

**Order Confirmation:** the order confirmation issued by Paragraf setting out the Products, charges any other terms applicable to the Contract.

**Paragraf:** Paragraf Limited, registered in England and Wales under company number 09889431, with its registered address at 7-8 West Newlands, Somersham, Cambridgeshire, UK, PE28 3EB.

**Products:** the products (or any part of them) set out in the Order Confirmation.

**Specification:** the specification for the Products as made available at link to [www.paragraf.com/hall-effect-sensors/](http://www.paragraf.com/hall-effect-sensors/), or as otherwise referenced in the Order Confirmation.

- 1.1 A reference to: **(a)** a statute or statutory provision is a reference to it as amended, re-enacted or replaced. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision; **(b)** a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); **(c)** a **party** includes its personal representatives, successors and permitted assigns; and **(d)** **writing** or **written** includes email.



- 1.2 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.
- 1.3 In the event that the Order Confirmation includes any services which are incidental to the supply of Products, references in this Agreement to Products shall be deemed to include such incidental services where the context requires.

## 2 Basis of Contract

- 2.1 An Order constitutes an offer by the Customer to purchase Products in accordance with these Conditions. Any quotation given by Paragraf shall not constitute an offer.
- 2.2 An Order shall only be deemed to be accepted when Paragraf issues an Order Confirmation, at which point, a contract between Paragraf and the Customer for the supply of Products shall come into existence, subject to the terms of the Order Confirmation and these Conditions (together a “**Contract**”). Each Order for which an Order Confirmation is issued in accordance with this clause 2.2 shall constitute a separate Contract.
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms in the Order or that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions or the Order Confirmation.
- 2.4 If there is any conflict or ambiguity between the terms of the Order Confirmation and these Conditions, the terms of the Order Confirmation shall prevail.
- 2.5 Any samples, drawings, descriptive matter or advertising issued by Paragraf, and any descriptions of the Products contained in Paragraf's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract or have any contractual force.
- 2.6 If, as indicated on the Order Confirmation, the Products are provided for “evaluation”, Customer shall only use such Products for the period specified in the Order Confirmation and only for internal demonstration, development, test, proof of concept or evaluation purposes or for the development of functional prototypes (which are not for sale or distribution) and not for any other purpose including, without limitation, not for production or commercial purposes. Such Products are loaned, and not sold, and on expiry of the period specified, Customer shall return such Products to Paragraf in accordance with Paragraf’s reasonable instructions. Returns shall be on a Delivered at Place basis (Incoterms® 2020) (“**DAP**”) to Paragraf UK, 7-8 West Newlands, Somersham, Cambridgeshire, PE28 3EB, UK.

## 3 Products

- 3.1 The Products are described in the Specification.
- 3.2 TO THE EXTENT THAT THE PRODUCTS ARE TO BE MANUFACTURED IN ACCORDANCE WITH A SPECIFICATION SUPPLIED BY THE CUSTOMER, THE CUSTOMER SHALL INDEMNIFY PARAGRAF 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 PARAGRAF IN CONNECTION WITH ANY CLAIM MADE AGAINST PARAGRAF FOR ACTUAL OR ALLEGED INFRINGEMENT OF A THIRD PARTY’S INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR IN CONNECTION WITH PARAGRAF’S USE OF THE CUSTOMER’S SPECIFICATION.



- 3.3 The Customer shall give Paragraf all necessary information that Paragraf reasonably requires to fulfil the Contract.
- 3.4 Paragraf reserves the right to amend the Products if required by any applicable statutory or regulatory requirement, and Paragraf shall notify the Customer in any such event.
- 3.5 Paragraf reserves the right to discontinue manufacturing and sale of any Products at any time, without liability. Paragraf shall where possible give Customer prior written notice of such discontinuance.
- 3.6 Paragraf may elect to provide the Customer with limited product support by telephone or by email during business hours on Business Days for a limited period, after delivery of the Products. The extent and availability of such support shall be at Paragraf's sole discretion.

## 4 Delivery

- 4.1 INCOTERMS: The Order Confirmation shall specify how Paragraf will deliver the Products to the Delivery Address, which shall either be on **(a)** an Ex-works basis (ICC Incoterms® 2020) ("**EXW**"); or **(b)** a Delivered at Place basis (Incoterms® 2020) ("**DAP**"). Where the Order Confirmation does not specify the method of delivery, the Products shall be delivered in accordance with clause 4.1(a).
- 4.2 "**Completion of Delivery**" shall be deemed to have occurred: **(a)** where the Products are delivered EXW, when the Products are made available for collection at the Delivery Address in accordance with EXW; or **(b)** where the Products are delivered DAP, when the Products are made available for unloading at the Delivery Address in accordance with DAP.
- 4.3 Paragraf shall deliver the Products in accordance with clause 4.1 at any time after Paragraf notifies the Customer that the Products are ready. Any dates stated for delivery of the Products are approximate only, and the time of delivery is not of the essence.
- 4.4 The Customer shall be responsible: **(a)** where the Products are delivered EXW, for arranging the collection of the Products on the relevant collection date from the Delivery Address; or **(b)** where the Products are delivered DAP, for unloading the Products on arrival at the Delivery Address and the Customer shall be liable for any loss or damage caused during such unloading.
- 4.5 Paragraf may deliver the Products by instalments, which shall be invoiced and paid for separately as detailed in the Order Confirmation (and references in these Conditions to an Order Confirmation shall, where applicable, be read as references to instalments). Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.6 If Paragraf fails to deliver any Products, its liability shall be limited to the price paid by the Customer for the specific Products which have not been delivered, as detailed in the Order Confirmation. Paragraf shall have no liability for any failure to deliver the Products to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Paragraf with adequate delivery instructions for the Products or any relevant instruction related to the supply of the Products.
- 4.7 If the Customer:
  - (a)** fails to collect the Products following notice under clause 4.3 (where the Products are delivered EXW); or
  - (b)** fails or refuses to take delivery of the Products (where the Products are delivered DAP), then except where that failure or delay is caused by Paragraf's failure to comply with its obligations under the Contract, then:
  - (c)** Completion of Delivery shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which: (i) where the Products are delivered EXW, Paragraf first notified the Customer under clause 4.3; or (ii) where the Products are delivered DPA, Paragraf first sought to deliver the Products;



- (d) Paragraf (or its nominee) shall store the Products until delivery takes place, and charge the Customer for all related costs and expenses (including insurance) in connection with such storage; and
- (e) Paragraf shall be entitled to invoice the Customer for (and the Customer shall pay): (i) the costs incurred by Paragraf in arranging and undertaking any further delivery of the Products; and (ii) the price of the Products specified in the Order Confirmation, along with any further costs and expenses due in accordance with the Contract.

4.8 If thirty Business Days after the day on which:

- (f) where the Products are delivered EXW, Paragraf first notified the Customer under clause 4.3; or
- (g) where the Products are delivered DAP, Paragraf first sought to deliver the Products

the Customer fails to take possession of the Products, Paragraf may terminate the Contract and/or resell or otherwise dispose of part or all of the Products at its discretion.

## 5 Warranty and Support

- 5.1 Subject to clauses 5.2, 5.3 and 5.4, Paragraf warrants that the Products shall be materially free from Defects for a period of twelve (12) months from the Completion of Delivery (“**Warranty Period**”).
- 5.2 Subject to clause 5.3, if: (a) the Customer gives notice in writing during the Warranty Period and within a reasonable time of discovery, that some or all of the Products do not comply with the warranty set out in clause 5.1; and (b) Paragraf is given a reasonable opportunity of examining such Products; and (c) the Customer (if asked to do so by Paragraf) returns such Products to Paragraf’s place of business at Paragraf’s cost, Paragraf shall, at its option and as its sole liability, repair or replace the defective Products, or refund the price of the defective Products in full.
- 5.3 Paragraf shall not be liable for the Products’ failure to comply with the warranty in clause 5.1 if: (a) the Customer makes any further use of such Products after giving a notice in accordance with clause 5.2; (b) the defect arises because the Customer failed to follow Paragraf’s oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice; (c) the defect arises as a result of Paragraf following any drawing, design or Specification supplied by the Customer; (d) the Customer alters or repairs such Products without the written consent of Paragraf; (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or (f) the Products differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.4 THE WARRANTY IN CLAUSE 5.1 SHALL NOT APPLY IN RESPECT OF ANY PRODUCTS WHICH, AS INDICATED ON THE ORDER CONFIRMATION, ARE PROVIDED FOR “EVALUATION” OR “PROOF” OR ARE INCIDENTAL SERVICES AS DESCRIBED IN CLAUSE 1.3. SUCH PRODUCTS AND INCIDENTAL SERVICES SHALL BE PROVIDED ‘AS IS’ AND WITHOUT ANY WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED.
- 5.5 EXCEPT AS PROVIDED IN THIS CLAUSE 5, PARAGRAF SHALL HAVE NO LIABILITY TO THE CUSTOMER IN RESPECT OF THE PRODUCTS’ FAILURE TO COMPLY WITH THE WARRANTY SET OUT IN CLAUSE 5.1.
- 5.6 These Conditions shall apply to any repaired or replacement Products supplied by Paragraf and the Warranty Period for such replacement Products shall be twelve (12) months from Completion of Delivery of the replacement Products.
- 5.7 Any technical data (including datasheets), advice, user manuals, safety information or other resources, other than the Specification, made available by Paragraf in respect to the Products (“**Technical Data**”) are provided for general guidance only do not expand or otherwise alter Paragraf’s warranties as set forth herein and no additional obligations or liabilities arise from Paragraf providing such Technical Data.
- 5.8 OTHER THAN AS SET OUT IN THESE CONDITIONS, ALL REPRESENTATIONS, WARRANTIES, UNDERTAKINGS, CONDITIONS AND ALL OTHER TERMS OF ANY KIND WHATSOEVER IMPLIED BY STATUTE OR LAW, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ARE DISCLAIMED AND EXCLUDED FROM THE



CONTRACT, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IT IS THE CUSTOMER'S RESPONSIBILITY TO SELECT THE APPROPRIATE PRODUCTS FOR ITS NEEDS AND MEETING ANY APPLICABLE STANDARDS AND SAFETY REQUIREMENTS IN ITS USE OF THEM.

- 5.9 Unless Paragraf has explicitly designated (as noted in the Specification), an individual Product as meeting the requirements of a particular industry standard Paragraf is not responsible for any failure to meet such industry standard requirements.

## 6 Title and Risk

- 6.1 The risk in the Products shall pass to the Customer on Completion of Delivery.
- 6.2 Title to the Products shall not pass to the Customer until Paragraf receives payment in full (in cleared funds) for the Products in respect of which payment has become due.
- 6.3 Until title to the Products has passed to the Customer, the Customer shall, in respect of Products not incorporated into Customer's products or used for internal development or testing: **(a)** store the Products separately from all other products held by the Customer so that they remain readily identifiable as Paragraf's property; **(b)** not remove, deface or obscure any identifying mark or packaging on or relating to the Products; **(c)** maintain the Products in satisfactory condition and keep them insured against all risks for their full price on Paragraf's behalf from the date of delivery; and **(d)** give Paragraf such information relating to the Products or any other information as Paragraf may reasonably require from time to time. Customer shall notify Paragraf immediately if it becomes subject to any of the events listed in clause 13.1(b) to (d).
- 6.4 Before title to the Products passes to the Customer, without limiting any other right or remedy Paragraf may have, Paragraf may at any time: **(a)** require the Customer to deliver up all the Products in its possession; or **(b)** if the Customer fails to promptly comply with clause 6.4(a), enter any premises of the Customer or of any third party where the Products are stored to recover them.

## 7 Customer's Obligations

- 7.1 The Customer shall: **(a)** not use the Products nor any Technical Data for any other purpose other than pursuant to and in accordance with these Conditions; **(b)** ensure that the terms of the Order Confirmation are complete and accurate and that the Products are appropriate for its needs; **(c)** provide Paragraf with adequate delivery instructions or any other instructions that are relevant to the supply of the Products; **(d)** comply with all applicable laws, including health and safety laws relevant to the use of the Products; **(e)** follow Paragraf's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products; **(f)** comply with any additional obligations as set out in the Order Confirmation; **(g)** ensure that where the Products are incorporated into any products or services it provides to its own customers, that it includes appropriate contractual terms with any end users to protect Paragraf's Intellectual Property Rights in the Products.
- 7.2 If Paragraf's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("Customer Default"): **(a)** without limiting or affecting any other right or remedy available to it, Paragraf shall have the right to suspend delivery of the Products 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 in each case to the extent the Customer Default prevents or delays Paragraf's performance of any of its obligations; **(b)** Paragraf shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Paragraf's failure or delay in performing any of its obligations and Paragraf will not be treated as being in breach of these Conditions or any Contract; and **(c)** the Customer shall reimburse



Paragraf on written demand for any costs or losses sustained or incurred by Paragraf arising directly or indirectly from the Customer Default.

## 8 Charges and Payment

- 8.1 The price for the Products shall be the price set out in the Order Confirmation.
- 8.2 Paragraf may, by giving notice to the Customer at any time before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to: **(a)** any request by the Customer to change the delivery date(s), quantities or types of Products ordered, or their specification; or **(b)** any delay caused by any instructions of the Customer or failure of the Customer to give Paragraf adequate or accurate information or instructions.
- 8.3 Unless otherwise stated in the Order Confirmation, Paragraf shall invoice the Customer on or around the date the Products are dispatched from Paragraf.
- 8.4 The Customer shall pay each invoice within 30 calendar days of the date of invoice or as otherwise as detailed in any Order Confirmation. Payment shall be by electronic bank transfer only. Where the Order Confirmation stipulates that the Customer is required to pay for the Products in advance of shipment, Paragraf shall not deliver the Products until payment has been received in cleared funds in full.
- 8.5 Where, as indicated on the Order Confirmation, Products are supplied on a “sale or return” basis, Customer shall be entitled, within the period specified in the Order Confirmation (“**Return Period**”), to elect to either: **(a)** retain the Products; or **(b)** return all the Products described in the Order Confirmation to Paragraf in good working order and resaleable condition within the Return Period. Returns shall be on a Delivered at Place basis (Incoterms® 2020) (“**DAP**”) to Paragraf UK, 7-8 West Newlands, Somersham, Cambridgeshire, PE28 3EB, UK. Paragraf shall issue an invoice for the relevant Products, in accordance with the price specified in the Order Form, on despatch. If the Customer elects to retain all the Products or fails to ensure all Products are returned to Paragraf within the Return Period, Customer shall pay such invoice in accordance with the payment terms specified in the Order Confirmation, or where the Order Confirmation does not specify payment terms, in accordance with clause 8.4.
- 8.6 If, on receipt by Paragraf, of Products returned pursuant to clause 2.6 or 8.5, such Products are found by Paragraf not to be in good working order and/or resaleable condition, Paragraf shall be entitled to invoice Customer, and Customer shall pay such invoice in accordance with clause 8.4, for any such affected Products.
- 8.7 Time for payment shall be of the essence of the Contract.
- 8.8 Unless stated otherwise in the Order Confirmation, all packaging, carriage, export, loading, and insurance costs (as applicable for the method of delivery) shall be invoiced to the Customer. All amounts payable by the Customer under the Contract are exclusive of import customs duties and taxes, which shall be the sole responsibility of the Customer.
- 8.9 If the Customer fails to make a payment due to Paragraf under the Contract in accordance with this clause 8, then, without limiting Paragraf’s remedies under clause 13 (Termination), 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 will accrue each day at 4% a year above the Bank of England’s base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 8.10 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). If any such withholding or deduction is required, Customer shall, when making the payment to which the withholding or deduction relates, pay to Paragraf such additional amount as will ensure that Paragraf receives the same total amount that it would have received if no such withholding or deduction had been required. All sums due to Paragraf under a Contract are exclusive of any value added tax, equivalent tax or sales tax chargeable in the UK or elsewhere (“**VAT**”), if any, which shall be charged in addition in accordance with





the relevant regulations in force at the time of making the relevant taxable supply and shall be paid by the Customer against receipt from Paragraf of a valid VAT invoice.

- 8.11 Payment must be made in the currency stipulated on the Order Confirmation. If payment is made in any other currency, or Paragraf incurs currency conversion or other bank charges, or suffers exchange-rate losses, Paragraf reserves the right to charge the Customer additional sums to cover such items.
- 8.12 Where payment is made to Paragraf via bank transfer, the Customer will be liable for any associated bank charges and associated transaction fees.

## 9 Intellectual Property Rights

- 9.1 All Intellectual Property Rights in or arising out of or in connection with the Products shall vest in Paragraf.
- 9.2 The Customer shall not attempt to: **(a)** circumvent any technical or physical protection measures applied to the Products; or **(b)** disassemble or reverse engineer the Products; or **(c)** investigate or access any aspects of the Products that are not disclosed by Paragraf, except to the extent permitted by Paragraf as detailed in any Technical Data.
- 9.3 Customer shall not use the Products nor Technical Data: **(a)** for determining if any features, functions or processes provided by the Products or disclosed by the Technical Data are covered by any patents or patent applications owned by Customer or a third party; **(b)** for developing technology or products which avoid any of Paragraf's Intellectual Property Rights; **(c)** as a reference for modifying existing patents or patent applications or creating any continuation, continuation in part, or extension of existing patents or patent applications; or **(d)** for generating data for publication or disclosure to third parties, which compares the performance or functionality of the Products with any other products created by Customer or a third party, without obtaining Paragraf's prior written consent.
- 9.4 In the event of any threatened or actual breach of this clause 9 or clause 11 (Confidentiality), it is acknowledged by the Customer that Paragraf will need to take action to protect its Intellectual Property Rights, Confidential Information and business interests worldwide by issuance of interim injunctions. In the event of any threatened or actual breach by the Customer of this clause 9 or clause 11 (Confidentiality), Paragraf shall be entitled, without proof of special damages, to apply for injunctive relief in any court of competent jurisdiction. **THE CUSTOMER SHALL INDEMNIFY PARAGRAF AGAINST ALL COSTS, CLAIMS, DEMANDS, LIABILITIES AND OTHER LOSSES ARISING DIRECTLY OR INDIRECTLY OUT OF A BREACH OF THIS CLAUSE 9 OR CLAUSE 11 (CONFIDENTIALITY). THIS CLAUSE 9.4 IS WITHOUT PREJUDICE TO PARAGRAF'S RIGHT TO CLAIM FURTHER GENERAL DAMAGES OR LOSSES ARISING OUT OF ANY BREACH OF THIS CLAUSE 9 OR CLAUSE 11 (CONFIDENTIALITY) OR THE CONTRACT BY THE CUSTOMER OR FROM PURSUING ANY OTHER REMEDIES AVAILABLE TO IT UNDER THE CONTRACT.**

## 10 Data Protection

- 10.1 To the extent that either party processes any personal data provided by the other party in the course of the performance of the Contract, each party shall act as independent controllers in relation to such personal data and each party shall comply with its respective obligations under applicable Data Protection Legislation in relation thereto.
- 10.2 Each party shall: **(a)** promptly provide the other party with such reasonable cooperation, information and assistance as required from time to time to enable the other party to comply with its obligations under applicable Data Protection Legislation as they relate to the Contract; **(b)** ensure that it has all necessary rights, approvals, consents and permissions to provide any personal data to the other party required under or in connection with the Contract; and **(c)** not knowingly perform its obligations under the Contract in such a way as to cause the other party to breach any of its obligations under applicable Data Protection Legislation.



10.3 For the purposes of this clause 10: **(a)** “Data Protection Legislation” shall mean the GDPR, the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended) and all other applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by applicable regulators, in each case, as amended, revised or replaced from time to time; **(b)** “GDPR” means in each case to the extent applicable to the processing activities: (i) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data; and (ii) Regulation (EU) 2016/679 as amended by any legislation arising out of the withdrawal of the UK from the European Union (also known as the UK GDPR); and **(c)** the terms "controller", "personal data" and "processes" shall be interpreted in accordance with applicable Data Protection Legislation.

## 11 Confidentiality

- 11.1 The Recipient Party undertakes that it shall during the Contract, and for a period of five years after disclosure of the relevant Confidential Information, **(a)** keep all Confidential Information secret; and **(b)** not disclose to any person any Confidential Information, except with the prior written consent of the Disclosing Party or as permitted by clause 11.2.
- 11.2 The Recipient Party may only disclose Confidential Information: **(a)** to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the Recipient Party's obligations under the Contract. The Recipient Party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the Confidential Information comply with this clause 11; **(b)** in accordance with clause 15; and **(c)** as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.3 If the Recipient Party is required to disclose any Confidential Information pursuant to clause 11.2(c), (provided that it is practical and lawful to do so): **(a)** the Recipient Party must notify the Disclosing Party in writing as soon as practicable before the disclosure; **(b)** the parties must use all reasonable endeavours to consult with each other with a view to agreeing the timing, manner and extent of the disclosure; and **(c)** the Recipient Party required to disclose must in any event use all reasonable endeavours to obtain written confidentiality undertakings in its favour from the third party. If the Recipient Party is unable to inform the Disclosing Party before Confidential Information is disclosed, it must (provided that it is lawful to do so) fully inform the Disclosing Party immediately afterwards in writing of the circumstances of the disclosure and the Confidential Information which has been disclosed.
- 11.4 All Confidential Information shall remain the property of the Disclosing Party and the Disclosing Party reserves all rights in its Confidential Information. Nothing in these Conditions or the disclosures envisaged by these Conditions shall (except as expressly agreed otherwise in these Conditions) operate to transfer, or operate as a grant of any licences or rights to use, any Intellectual Property Rights in the Confidential Information of the Disclosing Party.

## 12 Limitation of Liability

- 12.1 SUBJECT TO CLAUSE 12.2, THE RESTRICTIONS ON LIABILITY IN THIS CLAUSE 12 APPLY TO EVERY LIABILITY ARISING UNDER OR IN CONNECTION WITH THE CONTRACT INCLUDING LIABILITY FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION (WHETHER TORTIOUS OR STATUTORY), RESTITUTION, BREACH OF STATUTORY DUTY OR OTHERWISE.
- 12.2 NOTHING IN THE CONTRACT LIMITS ANY LIABILITY WHICH CANNOT LEGALLY BE LIMITED, INCLUDING LIABILITY FOR: (A) DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE; (B) FRAUD OR FRAUDULENT MISREPRESENTATION.





- 12.3 SUBJECT TO CLAUSES 12.1, 12.2, 12.4, 12.5 AND 12.6, PARAGRAF'S TOTAL LIABILITY TO THE CUSTOMER UNDER OR IN RELATION TO THE CONTRACT SHALL NOT EXCEED A SUM EQUAL TO THE AMOUNT PAID BY THE CUSTOMER FOR THE PRODUCTS UNDER THE CONTRACT IN RELATION TO WHICH THE CLAIM IS MADE.
- 12.4 SUBJECT TO CLAUSE 12.2, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR: (A) LOSS OF PROFITS; (B) LOSS OF SALES, REVENUE OR BUSINESS; (C) LOSS OF AGREEMENTS OR CONTRACTS; (D) WASTED EXPENDITURE OR LOSS OF ANTICIPATED SAVINGS; (E) LOSS OF USE OR CORRUPTION OF SOFTWARE, DATA OR INFORMATION; (F) LOSS OF OR DAMAGE TO GOODWILL; (G) LOSSES RELATED TO RELIANCE ON TECHNICAL DATA; OR (H) INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGE.
- 12.5 PARAGRAF SHALL IN NO CIRCUMSTANCES BE LIABLE TO THE CUSTOMER FOR ANY LOSS, DAMAGE OR LIABILITY INCURRED BY THE CUSTOMER AS A RESULT OF OR IN CONNECTION WITH A THIRD-PARTY CLAIM REGARDING THE INTELLECTUAL PROPERTY RIGHTS IN OR USED BY THE PRODUCTS (INCLUDING WITHOUT LIMITATION ANY CLAIM FOR CONTRIBUTORY INFRINGEMENT OR INDUCING INFRINGEMENT).
- 12.6 CUSTOMER ASSUMES SOLE RESPONSIBILITY FOR COMPLIANCE WITH ALL LEGAL, REGULATORY, SAFETY, AND SECURITY RELATED REQUIREMENTS CONCERNING USE OF THE PRODUCTS GENERALLY AND IN THE DEVELOPMENT OF, OR INCORPORATION INTO, PRODUCTS OR SERVICES: (A) USED IN APPLICATIONS OR ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE; AND (B) IN WHICH ERRORS OR INACCURACIES IN THE CONTENT, FUNCTIONALITY, OR INFORMATION PROVIDED BY ANY OF THE FOREGOING OR THE FAILURE OF ANY OF THE FOREGOING COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, REGARDLESS OF ANY INFORMATION OR SUPPORT THAT MAY BE PROVIDED BY PARAGRAF. CUSTOMER ACKNOWLEDGES THAT THE PRODUCTS ARE NOT DESIGNED FOR USE IN THE APPLICATIONS AND ENVIRONMENTS SET OUT IN (A), (B) AND (C).

## 13 Termination

- 13.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if: **(a)** the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so; **(b)** the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), 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 any relevant jurisdiction; **(c)** the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or **(d)** the other party's financial position deteriorates to such an extent that in the terminating party's reasonable opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 13.2 Without affecting any other right or remedy available to it, Paragraf may terminate the Contract with immediate effect by giving written notice to the Customer if: **(a)** the Customer fails to pay any amount due under the Contract by the due date for payment; **(b)** Customer asserts any Intellectual Property Rights alleging infringement against Paragraf or Paragraf's direct or indirect customers, distributors or any licensee of Paragraf's Intellectual Property Rights; or **(c)** Customer is in breach of clause 9.2 or 9.3
- 13.3 Without affecting any other right or remedy available to it, Paragraf may suspend, without liability, all deliveries or further deliveries of Products under the Contract or any other contract between the Customer and Paragraf if: **(a)** the Customer fails to pay any amount due under the Contract by the due date for payment; **(b)** the Customer becomes subject to any of the events listed in clause 13.1(b) to (d); **(c)** Paragraf reasonably believes that the Customer is likely to become subject any of the events listed in 13.1(b) to (d); or, **(d)** the Customer fails a credit check at any time.



## 14 Consequences of Termination

- 14.1 On expiry or termination of the Contract: **(a)** subject to each party's right to retain any documents or materials (including Confidential Information) to the extent necessary to comply with any applicable laws and continue to enforce its rights and take the benefit of its remedies under the Contract, each party shall promptly return or destroy (at the other party's request) any Confidential Information, (including any copies) in its possession, custody or control; **(b)** in respect of Products supplied but for which no invoice has been submitted, Paragraf shall submit an invoice to the Customer; **(c)** the Customer shall immediately pay to Paragraf all Paragraf's outstanding unpaid invoices and interest and those received pursuant to clause 14.1(b), immediately on receipt; and **(d)** until the Customer has paid all invoices in accordance with clause 14.1(c) the Customer's right to use the Products in accordance with the Contract shall be suspended, and the Customer shall: **(i)** be solely responsible for the safekeeping of the Products; **(ii)** store the Products separately from all other products held by the Customer so that they remain readily identifiable as Paragraf's property; **(iii)** not remove, deface or obscure any identifying mark or packaging on or relating to the Products; **(iv)** maintain the Products in satisfactory condition and keep them insured against all risks for their full price on Paragraf's behalf; and **(v)** not unbox or incorporate any of the Products into any other products or services.
- 14.2 If the Customer fails to comply with clauses 14.1(a) or (c) (as applicable and within 7 days of expiry or termination in relation to (c)), then Paragraf may enter the Customer's premises and take possession of any Products which the Customer has not paid for.
- 14.3 For the avoidance of doubt, Paragraf shall have no liability to the Customer in respect of any Products which are not supplied by Paragraf as a result of expiry or termination of the Contract.
- 14.4 Other than as set out in this clause 14, each party's further rights and obligations under the Contract shall cease immediately upon the expiry or termination of the Contract, provided that the expiry or termination of the Contract for any reason whatsoever shall not affect: **(a)** any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry, including, clauses 6.3, 6.4, 7, 8, 9, 10, 11, 12, 14 to 18; and **(b)** any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

## 15 Press Releases and Publications

- 15.1 The Customer shall not release any details of or the existence or subject matter of this Contract or the Products without the prior written approval of Paragraf. Paragraf shall be entitled to disclose that Customer is a purchaser of its products.

## 16 Force Majeure

- 16.1 Paragraf shall: **(a)** have no liability in respect of any failure or delay in delivering the Products or performing any of its obligations under a Contract and **(b)** be released from its obligation to deliver the Products or perform the relevant obligations, due to any cause outside the reasonable control of Paragraf, including acts of God or nature, fire, floods, war and civil disturbances, riots or terrorist actions, acts of Governments, currency restriction, labour disputes, strikes, shortages, unavailability of materials or failure of a supplier, carrier or subcontractor to deliver on time ("**Force Majeure Event**"). Paragraf shall also have the right, if a Force Majeure Event occurs, to terminate the Contract immediately by written notice to Customer.

## 17 Notices



- 17.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be: **(a)** 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 **(b)** sent by email to the address specified for each party's representative as set out in the Order Confirmation, or such other email address as notified to the other party for this purpose from time to time.
- 17.2 Any notice shall be deemed to have been received: **(a)** if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and **(b)** if sent by pre-paid first-class post 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 **(c)** 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 business hours means 9.00am to 5.00pm on a Business Day.
- 17.3 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.

## 18 General

- 18.1 Paragraf may at any time assign, mortgage, charge, novate, subcontract, delegate, declare a trust over or deal in any other manner with any or all its rights and obligations under the Contract.
- 18.2 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 Paragraf. The Customer must execute any document reasonably required by Paragraf to give effect to its rights under this clause 18.2.
- 18.3 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 18.3 shall not affect the validity and enforceability of the rest of the Contract.
- 18.4 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.
- 18.5 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.
- 18.6 The Contract constitutes the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter.
- 18.7 Each party acknowledges that in entering the Contract it does not rely on and shall have no remedies in respect of any oral or written statement, misrepresentation or representation, undertaking, assurance or collateral or other warranty (whether made innocently or negligently) that were made by or on behalf of the other party in relation to the subject matter of the Contract at any time before its signature ("**Pre-Contractual Statements**"), other than those set out in the Contract.
- 18.8 Each party hereby waives all rights and remedies which might otherwise be available to it in relation to such Pre-Contractual Statements but for clause 18.7.



- 18.9 Nothing in clauses 18.7 and 18.8 will exclude or restrict the liability of either party arising out of its pre-contract fraudulent misrepresentation or fraudulent concealment.
- 18.10 Unless expressly stated otherwise, 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.
- 18.11 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 18.12 Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed and approved by the parties (or their authorised representatives) in writing.
- 18.13 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: **(a)** only if Customer's address (as stated Order Confirmation) is in the U.S., the laws of the State of New York, excluding its conflict of laws principles; **(b)** only if Customer's address (as stated in the Order Confirmation) is in Asia, the laws of Singapore; or **(c)**, if neither (a) nor (b) apply, the laws of England and Wales.
- 18.14 Each party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim (including noncontractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation. Nothing in this agreement shall prevent a party from seeking injunctive proceedings in any court of competent jurisdiction.

## 19 Import and Export Control

- 19.1 The parties shall comply with all applicable requirements of national and international laws and regulations governing import and export control and associated embargo, and economic sanction regulations and trade restrictions ("**Controls**"). The Customer confirms that it is not a party identified as subject to any such Controls (and will take appropriate measure to ensure that its end users, agents and subcontractors are not subject to Controls) and it will not, nor will it allow (by way of sale or otherwise) any third party to, use the Products nor any confidential information of Paragraf directly or indirectly in breach of Controls or in respect to the design, development or production of nuclear, chemical or biological weapons. The Customer agrees to provide all necessary information and documents that Paragraf may require to obtain any necessary export licence and acknowledges that delivery times may be impacted by the export licence process. In the event that a necessary export licence is not granted, Paragraf shall have no liability to the Customer except for refunding any advance payments made by the Customer. **THE CUSTOMER SHALL INDEMNIFY AND HOLD PARAGRAF HARMLESS FOR ALL CLAIMS, DEMANDS, DAMAGES, COSTS, FINES, PENALTIES, ATTORNEY'S FEES, AND ALL OTHER EXPENSES ARISING FROM ITS NON-COMPLIANCE WITH THIS CLAUSE.**

