

CHADWICKS
GROUP



CREDIT

APPLICATION FORM

***for Trades Professionals &
Construction Companies***

CONTACT US

Chadwicks Group

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CREDIT APPLICATION FORM

Account Name:.....

Trading Title:.....

Address:.....
.....

Eircode: Tel No:..... Mobile No.:.....

Contact:..... DOB:..... Email Address:.....

Business Type:..... No. of Years Trading:.....

FOR LIMITED COMPANIES ONLY

Company Reg. No.: Date of Incorporation:

Registered Office:.....

Names and Addresses of Directors

1. DOB:

2. DOB:

Have Directors Traded Under any Other Name(s) (Associated Companies) Yes No

If yes please give details

.....

.....

GENERAL DETAILS

Do you require Order No's Yes No Exemption No.

Are you exempt from V.A.T. Yes No & Expiry Date / /20

Credit limit required

(Please attach a copy of your latest audited Accounts for Limited Companies)

Work on hand:

.....

Name of client: Contracts:

.....

.....

INVOICING

INVOICES DELIVERED ELECTRONICALLY

Options

Daily Notifications

Invoices to be Attached

Monthly Notifications

Invoices to be Attached

E-Mail Address for receipt of invoices

PAYMENTS

Payment to be made by electronic funds transfer *** please quote your account number on all payments*

BIC: BOFIE2D

IBAN: IE45 BOFI 9000 3312 5501 81

CONDITIONS OF SALE & HIRE

I understand that all goods supplied by Chadwicks Group Ltd. are subject to their current conditions of sale as over and I acknowledge that I have received a copy of same and agree to be bound by the conditions stated.

Goods remain the property of Chadwicks Group Ltd. until all monies are received
(See Sections 6 and 7 of Conditions overleaf)

Signature: Date:

OFFICE USE ONLY

Account No.:

Manager:

Date:

Credit Controller:

GUARANTEE TO CHADWICKS GROUP LTD

In consideration of your supplying goods/services and of your willingness to extend or continue to extend credit facilities to

..... **LIMITED**
of

.....
(hereinafter called "the purchaser")

I/We hereby jointly and severally **guarantee** the payment to you of all monies which are now due or which hereafter become due to you by the Purchaser in respect of such credit facilities and/or goods. I/We further agree and **guarantee** to make good any loss arising or incurred by you from the non payment to you of monies due to you by the Purchaser. I/We agree jointly and severally that all legal and other expenses incurred by you in enforcing or attempting to enforce your rights under the guarantee shall be included in computing of such loss incurred by you.

I/We further agree that this guarantee shall be a continuing guarantee and shall extend to cover the ultimate balance due at any time from the Purchaser to you. I/We agree and understand that my/our liability to you shall not in any way be diminished, discharged or otherwise affected by the time or indulgence given by you to the Purchaser whether or not you have a legal right to claim against the Purchaser or have made any demand or availed of legal remedies against the Purchaser.

I/We reserve the right, on giving one month's written notice to you, to revoke this guarantee as to all future dealings between you and the Purchaser but I/We agree and understand that notwithstanding such revocation I/We shall remain liable in respect of all monies which have become due to you by the Purchaser as at the date of such revocation (being one month after receipt of the notice in writing by you).

I/We confirm that I/We have read and fully understand the nature of my/our liabilities under **the guarantee** and that I/We have taken independent legal advice/hereby waive my/our right to take independent legal advice in relation to it.

I/We am/are willing to be legally bound by the terms and conditions of **this guarantee**.

Signature..... Date.....

Print Name.....

Signature..... Date.....

Print Name.....

Witness on behalf of
Chadwicks Group Ltd: Date:

I have signed the above and fully understand my commitments as guarantor

CHADWICKS GROUP LIMITED

TERMS AND CONDITIONS

- 1.1 INTERPRETATION - In these conditions the following words have the following meanings:
"Consumer" means an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession;
"Contract" means a contract which incorporates these conditions and made between the Customer and the Supplier for the hire of Goods;
"Customer" means the person, firm, company or other organisation hiring Hire Goods;
"Force Majeure" means any event outside a party's reasonable control including but not limited to acts of God, war, flood, fire, labour disputes, strikes, sub-contractors, lock-outs, riots, civil commotion, malicious damage, explosion, terrorism, governmental actions and any other similar events;
"Hire Goods" means any Goods which are hired to the Customer;
"Hire Period" means the period commencing when the Customer holds the Hire Goods on hire (including Saturdays, Sundays and Bank Holidays) and ending when the Hire Goods are returned to or physically repossessed or collected by the Supplier;
"Rental" means the Supplier's charging rate for the hire of the Hire Goods which is current from time to time during the Hire Period;
"Supplier" means the entity whose name and contact details appear on the front side of this document and includes its employees, servants, agents and/or duly authorised representatives;
"Services" means any services and/or work (if any) agreed to be performed by the Supplier in this Contract including any delivery and/or collection of the Hire Goods.
- 2 BASIS OF CONTRACT
- 2.1 Goods are hired strictly subject to them being available for hire at the time required by the Customer.
- 2.2 Where hire of the Hire Goods would be covered by the Consumer Credit Act 1995, the duration of the Hire Period shall not exceed 3 months, after which time the Contract shall be deemed to have automatically terminated. In such circumstances, the Customer shall return the Hire Goods to the Supplier on the final day of the 3 month Hire Period.
- 2.3 Nothing in this Contract shall exclude or limit any statutory rights of the Customer which may not be excluded or limited due to the Customer acting as a Consumer. For further information about your statutory rights as a Consumer Customers should contact their local office of the Director of Consumer Affairs or Citizens Information Centre.
- 2.4 Where the Customer deals as a Consumer, the Supplier is under a legal duty to supply Goods and Services which comply with the provisions of the Sale of Goods & Supply of Services Act 1980. Nothing in these conditions will affect and/or limit a Consumer's statutory or legal rights.
- 3 PAYMENT
- 3.1 The amount of any Deposit, Rental, monies and/or charges for any Services shall be as quoted to the Customer or otherwise as shown in the Supplier's current price list from time to time. The Supplier's prices are exclusive of VAT.
- 3.2 The Customer shall pay all sums payable under the Contract to the Supplier, without any set-off, deduction, counterclaim and/or any other withholding of monies at the time and in the manner agreed.
- 3.3 Payment by the Customer in cash or in cleared funds on time is an essential condition of the Contract.
- 3.4 Except where the Customer is a Consumer, if the Customer fails to make any payment when due the Supplier may charge the Customer interest on any amount unpaid at the rate implied under the European Communities (Late Payments in Commercial Transactions) Regulations, 2012.
- 3.5 The Supplier may set a reasonable credit limit for the Customer. The Supplier reserves the right to terminate or suspend this Contract if such credit limit is exceeded.
- 4 RISK, OWNERSHIP AND INSURANCE
- 4.1 Risk in the Hire Goods passes to the Customer when they leave the physical possession or control of the Supplier and will pass back to the Supplier only when the Hire Goods are back in the physical possession of the Supplier.
- 4.2 Ownership of the Hire Goods remains at all times with the Supplier. The Customer must not sell, assign, mortgage, pledge, offer as security, hire, lend, withhold, part with possession of or in any way deal with the ownership or any interest in the Hire Goods.
- 4.3 Where either the Customer or the Supplier provide insurance in respect of the Hire Goods, which will be an additional cost to the Rental, the Customer shall not compromise or settle any claim in respect of the Hire Goods without the Supplier's written consent.
- 5 DELIVERY, COLLECTION AND SERVICES
- 5.1 Unless otherwise agreed the Customer is responsible for the collection of the Hire Goods at the beginning of and the return of them to the Supplier at the end of the hire period. If the Supplier agrees to deliver to and/or collect the Hire Goods from the Customer it will do so at its standard delivery cost as part of the Services.
- 5.2 If the Supplier agrees to collect the Hire Goods from the Customer at the end of the Hire Period the Customer shall remain fully responsible and liable for the Hire Goods until they are collected provided they are collected within 5 working days after the end of the Hire Period.
- 5.3 Where the Supplier delivers or collects the Hire Goods the persons performing the Services are servants or agents of the Customer and are under the direction and control of the Customer who shall be solely responsible and liable for any instruction, guidance and/or advice given by the Customer to any such person.
- 5.4 The Customer agrees to allow and/or procure sufficient access to and from the relevant premises and to clear and prepare any premises where the Services are to be performed in advance.
- 5.5 The Customer is liable to pay Supplier's additional standard charges from time to time for any delay, postponement and/or cancellation of the Services due to the Customer failing to comply with its obligations, except where the Customer is acting as a Consumer and/or the delay is due to Force Majeure.
- 6 CARE OF HIRE GOODS
- 6.1 The Customer shall (i) not remove any labels from and/or interfere with or modify the Hire Goods; (ii) take reasonable care of the Hire Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions; (iii) notify the Supplier immediately after any breakdown, loss and/or damage to the Hire Goods and/or if the Hire Goods are involved in any accident resulting in any damage and/or injury; (iv) take adequate and proper measures to protect the Hire Goods from theft, damage and/or other risks; (v) when requested provide details of the location of the Hire Goods and permit the Supplier at all reasonable times and upon reasonable notice to inspect them wherever situated; (vi) keep the Hire Goods at all times in its possession and control and not to remove the Hire Goods from the Republic of Ireland; (vii) not do or omit to do anything which will or may invalidate any policy of insurance related to Hire Goods; (viii) not continue to use Hire Goods where they have been damaged; (ix) use only the proper type of fuel, oil and/or voltage is used where applicable; (x) ensure that anyone who operates the Hire Goods, if applicable, is adequately and sufficiently qualified and trained to operate them; (xi) return the Hire Goods in good working order and condition (fair wear and tear excepted) and in a clean condition together with all insurance policies, licences, registration and other documents relating to the Hire Goods at the end of the Hire Period.
- 7 BREAKDOWN
- 7.1 Allowance may be made for any non-use of the Hire Goods due to breakdown caused by an inherent fault and/or fair wear and tear provided the Customer informs the Supplier of the breakdown as soon as practicable.
- 7.2 The Customer is responsible for all expenses, loss (including loss of Rental) and/or damage arising from any breakdown of the Hire Goods due to the Customer's negligence, misdirection and/or misuse of the Hire Goods.
- 7.3 The Customer is responsible for the cost of all repairs necessary to Hire Goods during the Hire Period which arise otherwise than as a result of fair wear and tear, an inherent fault and/or the negligence of the Supplier while carrying out routine maintenance and/or repairs.
- 7.4 The Customer must not repair or attempt to repair the Hire Goods unless authorised to do so in writing by the Supplier.
- 8 LOSS OR DAMAGE TO THE HIRE GOODS
- 8.1 If the Hire Goods are returned damaged, unclean and/or defective (fair wear and tear and/or an inherent fault excepted), the Customer shall be liable for the cost of any repair and/or cleaning required to return the Hire Goods to a condition fit for re-hire and to pay the Rental until such repairs and/or cleaning have been completed.
- 8.2 In respect of any Hire Goods which are lost, stolen or damaged beyond economic repair during the Hire Period the Customer shall (i) pay to the Supplier the new replacement cost for any Hire Goods less than twelve (12) months old from first registration and/or (ii) reimburse the Supplier for any loss or costs suffered or incurred by the Supplier for any Hire Goods more than twelve (12) months old from first registration, less any amount paid to the Supplier under any policy of insurance and/or Deposit in respect of the Hire Goods.
- 8.3 The Customer remains liable to pay the Rental until the Supplier receives notice that the Hire Goods have been lost, stolen and/or damaged beyond economic repair and from the date the Supplier receives such notice until the date the Customer pays the Supplier the replacement cost of the Hire Goods (being the "Lost Rental Period") the Customer shall also pay, as a genuine pre-estimate of lost rental profit, a sum as liquidated damages for the lost rental being two thirds of the Rental that would have applied for the Hire Goods during the lost rental period.
- 9 TERMINATION BY NOTICE
- 9.1 Neither party may terminate a fixed period Hire Contract before the expiry of that fixed period unless agreed with the other party. Either party may terminate a Hire Contract of no fixed period by giving not less than 14 day's notice to the other party. If no period of notice has been agreed or specified the Customer may terminate the Hire Period by the physical return of the Hire Goods to the Supplier.
- 9.2 These rights are in addition to any rights the Customer who is a Consumer may have under European Union (Consumer Information, Cancellation and Other Rights) Regulations, 2013 and any other legal rights.
- 10 DEFAULT AND TERMINATION
- 10.1 If the Customer:-
- 10.1.1 fails to make any payment/s when due, and/or persistently breaches the terms of the Contract or fails to remedy a breach any term of the Contract capable of being remedied (if applicable) and/or provides incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract, him/her/itself or the Hire Goods and/or breaches condition 4.2 of this Agreement or becomes or threatens to become insolvent and/or ceases or threatens to cease trading or appears to the Supplier to be or to threaten to become insolvent or has a judgement marked against it then the Supplier shall have the right, without prejudice to any other remedies, to exercise or do any or all of the following:
- 10.2.1 except where the Customer is acting as a Consumer, enter, without prior notice, any premises of the Customer (or a third parties' premises with their consent) and repossess the Hire Goods;
- 10.2.2 withhold the performance of any Services and cease any Services in progress under this and/or any other Contract with the Customer;
- 10.2.3 immediately cancel, terminate and/or suspend without incurring Liability the Contract and/or any other contract with the Customer; and/or
- 10.2.4 all monies owed by the Customer to the Supplier shall immediately become due and payable.
- 10.3 Upon termination of the Contract the Customer shall immediately return the Hire Goods to the Supplier or make them available for collection by the Supplier or its authorised representatives (the Customer granting or procuring for the Supplier or its authorised representative the right to enter the premises from which the Hire Goods are to be collected without trespass) and pay to the Supplier all sums payable under the Contract.
- 11(a) LIMITATIONS OF LIABILITY – OTHER THAN WHERE THE CUSTOMER ACTS AS A CONSUMER
- (a) All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law and if the Supplier is found to be liable in respect of any loss or damage to the Customer's property the extent of the Supplier's Liability will be limited to the retail cost of replacement of the damaged property.
- 11(b) LIMITATIONS OF LIABILITY – FOR ALL TYPES OF CUSTOMERS
- 11.1 Any defective Hire Goods must be returned to the Supplier for inspection if requested by the Supplier before the Supplier will have any Liability for such defective Hire Goods.
- 11.2 The Supplier shall have no Liability for additional damage, loss, liability, claims, costs or expenses caused or contributed to by the Customer's continued use of defective Hire Goods after a defect has become apparent or suspected or should reasonably have become apparent to the Customer.
- 11.3 The Supplier shall have no Liability to the Customer to the extent that the Customer is covered by any policy of insurance arranged as a result of the Contract and the Customer shall ensure that the Customer's insurers waive any and all rights of subrogation they may have against the Supplier.
- 11.4 The Supplier shall have no Liability to the Customer in Contract, Tort, at Common Law and/or Statute for any consequential losses, economic and/or other similar losses, business interruption, loss of business, contracts and/or opportunity including loss of profits and/or damage to goodwill and/or special damages and/or indirect losses howsoever arising or alleged.
- 11.5 The Supplier's total Liability to the Customer under and/or arising in relation to any Contract shall not exceed 5 times the amount of the Rental, in addition to charges for Services (if any) under that Contract or the sum of 1,000 whichever is the lower.
- 11.6 Nothing in this Contract shall exclude or limit the Liability of the Supplier for fraud, death or personal injury due to the Supplier's negligence, nor exclude or limit any other type of Liability which it is not permitted to exclude or limit as a matter of law.
- 12 GENERAL
- 12.1 Each hire of an item of Hire Goods shall form a distinct Contract which shall be separate to any other Contract relating to other Hire Goods.
- 12.2 The Customer shall be liable for the acts and/or omissions of its employees, agents, servants and/or subcontractors as though they were its own acts and/or omissions under this Contract.
- 12.3 Except where the Customer is a Consumer, the Customer agrees to indemnify and keep indemnified the Supplier against any and all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), actions and any other losses and/or liabilities suffered by the Supplier and arising from or due to any breach of contract, any tortious act and/or omission and/or any breach of statutory duty by the Customer.
- 12.4 Except where the Customer is a Consumer, no waiver by the Supplier of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision. If any provision is held by any competent authority to be unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.
- 12.5 The Supplier shall have no Liability to the Customer for any delay and/or non-performance of a Contract to the extent that such delay is due to any Force Majeure events. If the Supplier is affected by any such event then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.
- 12.6 This Contract is governed by and interpreted in accordance with the laws of the Republic of Ireland and the Irish Courts shall have exclusive jurisdiction in relation to this Contract.
- 12.7 The Supplier is a member of the Grafton Group PLC (hereafter called "the group"). When the Customer, being an individual, supplies personal data to the Supplier, the Supplier may process the personal data including sharing it with other companies within the group and any other relevant third party but only in compliance with the General Data Protection Regulation (GDPR), for any of the following purposes (hereafter called "the purposes"): (i) to provide the Customer with information about products or services which the Customer may be interested in (ii) to enable or assist the Supplier to carry out its obligations in regard to any contracts for supply of goods and/or services to the Customer (iii) to enable the Company to notify the Customer of changes to the Supplier's services and/or terms and conditions (iv) to assist or enable the Supplier to deliver goods to the Customer (v) to assist the Supplier in its administration, risk assessment and credit checking, including carrying out credit checks against the Customer.

CHADWICKS GROUP LIMITED

TERMS AND CONDITIONS

- 1 These terms and conditions shall govern all Contracts for the supply of sale goods (hereinafter called "the Goods") by The Company to any other person or entity (hereinafter called "the Customer") and shall prevail over any contrary or inconsistent terms or conditions contained in or referred to in the Customer's Order or in correspondence or elsewhere and all or any conditions or stipulations contrary or inconsistent to these terms and conditions are hereby excluded and of no force or effect. No variation or purported variation of these terms and conditions shall have effect unless expressly agreed to in writing by the Company. No Employee of the Company has authority to vary or add to or depart from these terms and conditions or make any representation about the goods or the Contracts made hereunder. In these Terms and Conditions "Consumer" means a natural person who is acting for purposes which are wholly or mainly outside the person's trade, business, craft or profession.
- 2 No order placed in response to a quotation will be binding unless accepted by the Company in writing. All such acceptances by the Company are strictly subject to availability of the goods ordered and, where appropriate, to the Company being able to obtain any necessary licences or permits for same and to such licences or permits remaining valid.
- 3 The prices of the goods shall be those ruling at the date of sale. Any Value Added Tax payable in respect of the goods supplied under these terms and conditions will be borne by the Customer. Any prices quoted by the Company for goods are provisional prices only and should there be any fluctuation between the prices quoted and the prices pertaining at the date of sale the prices pertaining at the date of sale shall be the prices payable by the Customer.
- 4 Where the Customer is a Consumer, before the Customer will be bound to pay any additional payments over and above the price of the goods and delivery charges, the Customer must give an express consent agreeing to such additional payments.
- 5 If the Company has agreed with the Customer to deliver any of the goods to the Customer, the times, if any, indicated for the commencement and completion of any deliveries are approximate times only and shall not form part of the contract or contracts or be binding upon the Company and the Company shall not be liable in any respect whatsoever for failure to supply or deliver some or all of the goods by such times, if any, indicated as aforesaid. Time of delivery is not in any circumstances of the essence of the contracts.
- 5(a) Where the Customer is a Consumer and the Company has agreed to dispatch any of the goods to the Customer the following provisions apply in regard to delivery of the goods if, but only if, the Company and the Customer have agreed a specific time (or times) for delivery of the goods by the Company to the Customer by transferring physical possession or control of the goods to the Customer:
 - (i) If the Company does not deliver the goods at the time (or times) specifically agreed with the Customer or within such additional period of time or times as the Customer may allow for delivery of the goods aforesaid, then the Customer may treat the failure by the Company to deliver the goods as a breach of a condition of the Contract which entitles the Customer to repudiate the Contract but
 - (ii) Where the Customer has made the Company aware that the agreed time or times for delivery of the goods is essential, or where the time or times agreed for delivery of the goods is essential when taking into account all the relevant circumstances at the time of conclusion of the Contract, then failure by the Company to deliver the goods within the time or times specifically agreed will entitle the Customer to repudiate the Contract if he chooses to do so.
 - (iii) If the Customer repudiates the Contract in accordance with conditions 5 (a)(i) and/or 5 (a)(ii), then the Company shall, without undue delay, reimburse all the sums paid under the Contract to the Customer.
- 6 (a) Payment of any sums due to the Company for goods shall be made as follows: (i) on cash sales, at the point of sale and (ii) where the Customer has opened a credit account with the Company, within 30 days from the date on which the goods are invoiced unless otherwise specified. (b) Non payment by the Customer of any sums due to the Company shall entitle the Company, without prejudice to any other rights it may have, to discontinue any further supplies and shall entitle the Company to withhold supply of the goods or any part thereof until all monies due by the Customer to the Company on whatever accounts are paid. (c) The Customer shall not be entitled to withhold payment of any sums due to the Company merely by reason of the fact that part only of a consignment of goods has been supplied. The Company shall be entitled to payment for such part or parts of such consignments of goods as have been supplied. (d) The Company shall not entertain any query in relation to the price of any goods on any invoices unless such query is (i) made bona fide and (ii) raised within 30 days of the date of the invoice, unless there is manifest error on such invoice/s. (e) Whether the Company discontinues supplies of goods where payment for some goods is overdue or decides to continue to supply goods where payment for some goods is overdue notwithstanding its entitlement to discontinue such supplies, the Customer shall pay to the Company late payment interest pursuant to the EU Late Payments in Commercial Transactions Regulations, 2012 on such overdue payments until such overdue payments, together with accrued interest, have been paid in full. Such interest shall be payable on demand and may be charged and added to the balance of overdue payments from time to time. A statement from the Company of the amount of late payment interest shall, in the absence of manifest error, be conclusive. These interest provisions do not apply where the Customer is a Consumer. (f) The Company reserves the right to apply any monies received from the Customer in discharge of the oldest invoice/s remaining unpaid at any time. (g) The Company may, at its discretion, supply goods by instalments. Where goods are supplied by instalments, each instalment shall be deemed to be the subject of a separate contract and the Company shall issue an invoice and the Customer shall pay for same as if each instalment constituted the performance by the Company of a separate contract. No default or failure by the Company in respect of any one or more instalments shall vitiate this agreement in respect of any goods previously supplied or in respect of any unsupplied goods.
- 7 Ownership of and title to goods supplied by the Company to the Customer shall remain in the Company until the goods have been paid for in full. Until all goods sold have been paid for in full, the Customer shall, as regards any goods it has received from the Company, (a) store such goods so as clearly to show them to be the property of the Company and shall keep such goods in their original state, in perfect order, repair and condition suitably stored and protected from weather and risk (b) hold such goods and all monies received from any sub-sales thereof (if any) as Bailee and Trustee respectively for the Company provided that nothing herein shall constitute the Customer the agent of the Company for the purpose of any such sub-sales, (c) if the Customer sells or disposes of any of the goods before paying for same the Customer shall in such case act on its own account and not as agent for the Company and shall hold all monies received from such sales or disposals in trust for the Company.
- 8 The Company shall be entitled to repossess any goods supplied to the Customer in respect of which payment is overdue and thereafter to keep, resell or otherwise dispose of same as the Company deem fit. For these purposes the Customer HEREBY GRANTS an irrevocable right, permission and licence to the Company, its servants and agents, to enter with or without vehicles on to any premises of the Customer where such goods are situated for the purpose of repossessing the said goods. The Customer further agrees and undertakes not to obstruct or in any way to resist the Company in its efforts to repossess such goods either from the Customer's premises or from any other premises at which such goods are situated. If the Company should exercise its rights pursuant to this sub-clause it and/or its agents will take reasonable care to avoid causing damage or inconvenience to the Customer and/or its property but the Company and/or its agents shall not be liable for any such damage or inconvenience caused notwithstanding. If demanded by the Company, the Customer agrees deliver up to the Company any goods not paid for when payment has fallen due howsoever that nothing in this clause shall confer any right upon the Customer to return any of the goods to the Company and the Company may maintain an action for the price of the goods or some or all of same notwithstanding that ownership of and title to the goods shall not have vested in the Customer. For the avoidance of any doubt on the Customer's part, this Clause constitutes and is intended to constitute a Retention of Title Clause and is accepted by the Customer, without reservation, on the receipt of these terms of sale and/or the signing of the Company's Credit Application Form (of which these terms of sale form part) by the Customer.
- 9 Notwithstanding that the title in the goods shall not pass to the Customer, except as is provided in Clause 7, the goods shall be at the risk of the Customer from the time of collection by the Customer or delivery to the Customer of such goods. Where the Customer is a Consumer and the Company dispatches the goods the goods remain at the Company's risk until the Customer acquires physical possession of the goods. This does not apply, however, where the goods are delivered to any carrier who/which is not proposed by the Company and who/which is commissioned or engaged for the purpose by the Customer. In such case/cases, the goods are at the Customer's risk upon delivery of them to such carrier.
- 10 (a) Goods are not sold as fit for any particular purpose and the Customer alone is responsible for selecting goods which are suitable for the Customer's purpose. (b) No warranty, guarantee, undertaking or assurance and/or representation whatsoever is given or made in regard to the fitness of any goods for any particular purpose or of the quality of any goods. (c) No liability whatsoever shall attach to the Company in relation to goods alleged to be damaged or defective unless such allegations are reported in writing to the Company within five working days of receipt of such goods by the Customer and facilities are immediately provided to the Company or its agent to inspect the said goods. If the Company or its agent, having inspected the said goods, agrees with the Customer that the goods are damaged or defective, normal wear and tear excluded, then provided such damage or defect is or was not caused by the Customer its servants, agents or employees, then the Company will accept return of the goods so damaged or defective and will issue a credit note to the Customer for replacement of same. (d) The Company's liability for any claim, whether in contract, tort (including negligence) or otherwise for any loss, damage, inconvenience and/or costs arising out of or in connection with any goods shall in no case exceed the price paid by the Customer for such goods. (e) The Company shall not be liable for any loss of current or future profits, loss of opportunity or enterprise, special damages or any consequential loss, special loss, incidental loss, punitive loss or damage alleged or suffered by the Customer whether occasioned or alleged to have been occasioned by the negligence of the Company, its employees, servants and/or agents or otherwise. Howsoever that nothing in this clause or this agreement is intended to or shall have the effect of limiting, excluding, prejudicing or in any way adversely affecting the rights however arising of Consumers in the Republic of Ireland nor shall they operate to limit or exclude any statutory rights which cannot be legally limited or excluded, including any statutory rights of Consumers. Nothing in these terms and conditions shall exclude or limit the liability of the Company for death or personal injury resulting from the negligence of the Company or any of its employees, servants or agents.
- 11 (a) All deliveries of goods to the Customer shall be to a place as agreed in advance between the parties (hereinafter called "the delivery point") and the Customer undertakes to ensure that the delivery point and access thereto shall in all respects be cleared and made ready for the delivery and receipt of the goods without undue difficulty and/or inconvenience and/or unacceptable risk to the goods and/or the Company, its servants, agents or employees. (b) If in the reasonable opinion of the Company and/or its delivery agent the delivery point and access thereto are not cleared and made ready for the receipt of any of the goods or pose or might pose an undue difficulty and/or inconvenience and/or an unacceptable risk to the Company, its servants, agents or employees, or to any of the goods to complete delivery, the Company expressly reserves the right to refuse to complete delivery of the goods or some or any of them. In such event the Company will arrange for the storage of such undelivered goods at cost to be borne by the Customer (except where the Customer is a Consumer) and the Company shall notify the Customer at the earliest reasonable opportunity as to where such goods are stored, the cost of storage and the cost for completion of delivery of the goods. (c) Goods are deemed to be supplied, and the Company is deemed to have properly performed its obligations under these terms and conditions, when the Company delivers the goods to the delivery point or, by agreement, when the Company makes the goods available for collection by the Customer or its agent or any carrier employed by the Customer (who shall solely be the Customer's agent) at the Company's premises. (d) The Company shall not deliver goods to any third party unless specifically requested in writing by the Customer so to do. (e) The Company reserves the right to charge for all deliveries of goods to the Customer. Where the Customer is a Consumer the costs of delivery, which are additional costs, will be expressly agreed with the Customer before any binding Contract will exist between the Customer and the Company. (f) Unless expressly agreed all deliveries of goods shall be completed during normal working hours meaning between the hours of 8.00am and 1.00pm and 2.00pm and 5.00pm, Monday to Friday (exclusive of any bank holidays and normal public holidays) and all collections of goods shall be during the Company's business opening hours only. Notwithstanding, if the Company agrees to a special request by the Customer for delivery of goods outside of normal working hours such agreement is subject strictly to an additional delivery fee being agreed by the parties prior to completion of the delivery.
- 12 The Company shall not be liable to the Customer or to any third parties for failure or delay in performance of any of its obligations to the Customer where such failure or delay in performance results from the failure of the Customer to perform any of its obligations under this agreement or from any cause or causes beyond the control of the Company or beyond control of the Company's suppliers including, but not limited to, war, sabotage, riot or other acts of civil disobedience, strikes, lock-outs, trade disputes or other trade disturbances, acts of God, acts of any Government, Government Agency or such like body, legal actions or restrictions, embargos, illness, accident, fire, explosion, flood, tempests, delays in delivery to the Company or by the Company's suppliers, shortage of labour, fuel, raw materials or machinery, weather or any other force majeure and in the event of failure or delay in performance by the Company for any such cause the Company shall be entitled, without liability to the Customer or to any third parties, to cancel or vary the terms of this and any Contract with the Customer.
- 13 Without prejudice to any other rights which the Company may have, the Company shall be entitled to cancel any uncompleted orders and withhold or suspend supply of further goods and to demand payment forthwith of all sums due by the Customer to the Company and in any other way it deems appropriate and reasonable to vary its agreements with the Customer up to and including, where appropriate, termination of such agreements if the Customer (a) fails to comply with any of these terms and conditions and/or any payment or credit terms agreed between it and the Company are breached (b) commits an act of Bankruptcy or insolvency or engages a Personal Insolvency Practitioner in relation to its affairs and/or creditors or enters into a Personal Insolvency Arrangement or makes an arrangement or composition with its creditors or suffers any distress or execution to be levied against it (c) has a Receiver, Examiner, Administrator or Liquidator appointed to it (d) resolves or is ordered to be wound up or serves Notice of Intention to call a creditors' meeting (e) acts in such a way as to cause damage to the Company's business, goodwill or reputation or (f) without prior agreement with the Company, cancels a direct debit mandate in favour of the Company or if a cheque furnished by the Customer is returned unpaid to the Company.
- 14 This Contract shall be governed by and interpreted in accordance with the laws of the Republic of Ireland and the parties hereto irrevocably agree that the Courts of Ireland shall have exclusive jurisdiction to hear and determine any legal proceedings which may arise out of or in connection with these terms and conditions and any contracts between the parties hereunder.
- 15 If any goods are supplied with packaging designated by the Company as "returnable", the Customer shall return such packaging, carriage paid and in perfect order and condition, to the Company within one month of supply of such goods to the Customer. This provision shall not apply where the Customer is a Consumer.
- 16 The Company will not be liable for loss or damage to goods or materials in transit in the Republic of Ireland or elsewhere.
- 17 Goods shall not be returned after supply without the Company's prior agreement in writing and in any such event the Customer must prove to the satisfaction of the Company that the goods intended to be returned were in fact supplied by the Company. When the Company so agrees, except where the Customer is a Consumer, the Customer shall pay a re-stocking charge of 15% of the price of the goods.
- 18 If any one or more of these terms and conditions and/or any sub-clauses therein shall for any reason be held to be unenforceable, illegal or otherwise invalid, such unenforceability, illegality or invalidity shall not affect any other of these terms and conditions and these terms and conditions shall be read and construed as if such unenforceable, illegal or invalid provision(s) had never been contained herein.
- 19 The Company is a member of the Grafton Group PLC (hereafter called "the group"). When the Customer, being an individual, supplies personal data to the Company, the Company may process the personal data including sharing it with other companies within the group and any other relevant third party, but only in compliance with the General Data Protection Regulation (GDPR) for any of the following purposes (hereafter called "the purposes"): (i) to provide the Customer with information about products or services which the Customer may be interested in (ii) to enable or assist the Company to carry out its obligations in regard to any contracts for supply of goods and/or services to the Customer (iii) to enable the Company to notify the Customer of changes to the Company's services and/or terms and conditions (iv) to assist or enable the Company to deliver goods to the Customer (v) to assist the Company in its administration, risk assessment and credit checking, including carrying out credit checks against the Customer.