

Mi-King Ltd Terms and Conditions of Sale

1. INTERPRETATION

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

Business Day:

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

Commencement Date:

has the meaning set out in clause 2.2;

Conditions:

these terms and conditions as amended from time to time in accordance with clause 18.8;

Contract:

the contract between Mi-King and the Customer for the supply of Goods and/or Services in accordance with these Conditions and comprising of the Order and these Conditions;

Customer:

the company purchasing the Goods and/or Services from Mi-King;

Customer Group:

in relation to the Customer, any member of its Group.

Customer Default:

any act or omission by the Customer or failure by the Customer to perform any relevant obligation under the Contract.

Deliverables:

the deliverables set out in the Order;

Delivery:

completion of delivery of an Order in accordance with clause 4.3;

Delivery Location:

has the meaning set out in clause 4.2;

Force Majeure Event:

has the meaning given to it in clause 18.1.1;

Goods:

the goods including the Deliverables (or any part of them) set out in the Order;

Goods Specification:

any specification for the Goods, including any relevant plans, grades or drawings, that is agreed in writing by the Customer and Mi-King;

Group:

in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

Intellectual Property Rights:

all patents, rights to inventions, utility models, copyright and related rights, design right trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

Order:

the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of Mi-King's quotation;

Services:

the processing, warehousing or any other services, supplied by Mi-King to the Customer as set out in the Service Specification;

Service Specification:

the description or specification for the Services provided in writing by Mi-King to the Customer;

Tooling:

tooling and equipment provide by the Customer to Mi-King for the provision of the Services;

Mi-King:

Mi-King Limited a company registered in England and Wales with company number 02312388.

1.2 In these Conditions, the following rules apply:

- 1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns;
- 1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.4 any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- 1.2.5 save as set out in clause 15, a reference to **writing** or **written** includes e-mails; and
- 1.2.6 if there is any inconsistency between the Order and these Conditions, the Conditions shall prevail over the Order.

2. **BASIS OF CONTRACT**

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when Mi-King:
 - 2.2.1 issues written acceptance of the Order; or
 - 2.2.2 notifies the Customer that the Supplier is able to provide the Goods and/or Services;
 - 2.2.3 begins to perform the Services; or
 - 2.2.4 commences performance of the Order for the Goods,at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Mi-King which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by Mi-King and any descriptions of the Goods or illustrations or descriptions of the Services contained in Mi-King's catalogues, website or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by Mi-King shall not constitute an offer, and is only valid for a period of five (5) Business Days from its date of issue.
- 2.7 The Customer shall ensure that the terms of its Order and any applicable Goods Specification or Service Specification are complete and accurate.
- 2.8 Any typographical, clerical or other error or omission in any sales literature, quotation, acceptance or offer, invoice or other documents or information issued by Mi-King shall be subject to correction without liability on the part of Mi-King.
- 2.9 Mi-King reserves the right to make any changes to the Goods Specification or Services Specification which are required to conform with any applicable statutory requirements or other regulations or where the Goods or Services are supplied to the Customer's specification which do not materially affect their quality or performance taking into account industry standard tolerances applicable to such Services including the weight, thickness, grade and length of the Deliverables. Mi-King reserves the right to charge for any amendments.
- 2.10 No Order which has been accepted by Mi-King may be cancelled by the Customer except with the agreement in writing of Mi-King and on the terms that the Customer shall indemnify Mi-King in full against all loss (including without prejudice to the generality of the foregoing) loss of profit, costs (including the cost of all labour and materials used and pre-ordered), damages, charges and expenses incurred by Mi-King as a result of the cancellation.
- 2.11 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. **GOODS**
- 3.1 The Goods are described in the quotation and the Goods Specification.
4. **DELIVERY OF GOODS**
- 4.1 Mi-King shall ensure that each Delivery of the Goods is accompanied by a delivery note which shows the type and quantity of the Goods.
- 4.2 Mi-King shall, or shall procure, Delivery of the Goods to the location set out in the Order or such other location as the parties may agree (Delivery Location) at a time as agreed between the parties.
- 4.3 Delivery is completed when Goods are placed at the Customer's disposal at the Delivery Location.
- 4.4 Any dates quoted for Delivery of the Goods are approximate only, and the time of Delivery is not of the essence. If Mi-King fails to deliver, or procure Delivery of the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Mi-King shall not be liable for any delay in Delivery of the Goods that is caused by a Force Majeure Event.
- 4.5 If the Customer fails to collect or take Delivery of the Goods within one (1) Business Day of Mi-King notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Mi-King's failure to comply with its obligations under the Contract in respect of the Goods:
 - 4.5.1 delivery of the Goods shall be deemed to have been completed at 09.00hr on the first Business Day following the day on which Mi-King notified the Customer that the Goods were ready; and
 - 4.5.2 Mi-King shall store the Goods until delivery takes place, and may, at its sole discretion, charge the Customer for all related costs and expenses (including insurance).
- 4.6 If thirty (30) days after Mi-King notified the Customer that the Goods were ready for Delivery the Customer has not collected or taken delivery of them, Mi-King may, at its sole option, resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 4.7 No claim for any Goods damaged in transit will be considered by Mi-King unless:
 - 4.7.1 the delivery note relating to such Goods is clearly marked with the words "Goods received damaged" or words of a similar nature and such statement on the delivery note is signed by the Customer; and
 - 4.7.2 Mi-King is advised in writing of the details of the damage, which is accompanied by a copy of the signed delivery note in accordance with clause 4.7.1 within FIVE (5) Business Days of the Customer's receipt of the Goods.
- 4.8 The Customer shall not be entitled to reject the Goods if Mi-King delivers up to and including 10 per cent more or less than the quantity of Goods ordered.
- 4.9 Mi-King may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
5. **TITLE AND RISK**
- 5.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 5.2 Without prejudice to clause 4.6, no title in any goods covered by the Contract shall pass to the Customer until Mi-King has received payment in full and in cleared funds for:
 - 5.2.1 the Goods; and
 - 5.2.2 any other goods or services that Mi-King has supplied to the Customer or Customer Group under this or any other agreement,in which case title to the Goods shall pass at the time of receipt of payment of all such sums.
- 5.3 Without prejudice to clause 4.6, until title to the Goods has passed to the Customer, the Customer shall:
 - 5.3.1 hold the Goods on a fiduciary basis as Mi-King's bailee;
 - 5.3.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Mi-King's property;
 - 5.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 5.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Mi-King's behalf from the date of delivery;
 - 5.3.5 notify Mi-King immediately if it becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.12; and
 - 5.3.6 give Mi-King such information relating to the Goods as Mi-King may require from time to time

but the Customer may resell or use the Goods in the ordinary course of its business.

5.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.12, or Mi-King reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy Mi-King may have, Mi-King may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

5.5 Where the Services include the warehousing of the Customer's Goods, the following provisions shall apply:

5.5.1 unless agreed expressly in writing the Customer's Goods shall be stored at the Customer's risk; and

5.5.2 title to the Customer's Goods shall remain with the Customer at all times.

6. **'NON-PRIME' GOODS**

6.1 Goods sold as 'non-prime' or which Mi-King and the Customer agree to be 'non-prime' are sold, without warranty and with all defects whether or not inspected by the Customer prior to delivery. Any statement, specification, description or other information provided by Mi-King in respect of such goods is given in good faith, but Mi-King accepts no responsibility for its accuracy. Under no circumstances will Mi-King be under any obligation to replace or make good such Goods, or be liable for any claim whatsoever in respect of them.

7. **SUPPLY OF SERVICES**

7.1 Mi-King shall provide the Services to the Customer in accordance with the Service Specification in all material respects.

7.2 Mi-King shall use all reasonable endeavours to meet any performance dates for the Services specified in the quotation, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 Mi-King warrants to the Customer that the Services will be provided using reasonable care and skill.

8. **TOOLING**

8.1 Where the Customer has provided Tooling to Mi-King for the provision of the Services unless otherwise agreed in writing:

8.1.1 title to the Tooling shall remain with the Customer at all times;

8.1.2 risk in the Tooling shall remain with the Customer and the Customer shall be responsible for insuring the Tooling against all risks including loss, theft, damage and destruction whilst at Mi-King's premises;

8.1.3 Mi-King shall return the Tooling to the Customer, on the Customer's written request and at the Customer's cost;

8.1.4 Mi-King shall not be liable for the completion of any Orders requiring the Tooling where such Tooling has been returned to the Customer at the Customer's request, damaged or destroyed by the Customer or damaged or destroyed due to an inherent defect in the Tooling.

9. **CUSTOMER'S OBLIGATIONS**

9.1 The Customer shall:

9.1.1 ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification and the Services Specification are complete and accurate;

9.1.2 co-operate with Mi-King in all matters relating to the Goods and Services;

9.1.3 provide Mi-King with such information, forward delivery dates, locations and materials as Mi-King may reasonably require to supply the Good and Services, and ensure that such information is accurate in all material respects;

9.1.4 obtain and maintain all necessary licences, permissions and consents which may be required for the provision of Goods and Services before the date on which the Goods are to be supplied or the Services are to start;

9.1.5 deliver to Mi-King at the Customer's cost, any Tooling required by Mi-King to fulfil the Order as agreed by Mi-King in writing.

10. **QUALITY**

10.1 Where Mi-King is not the manufacturer of the Goods, Mi-King shall endeavour to transfer to the Customer the benefit of any warranty or guarantee given to Mi-King.

10.2 Mi-King warrants that on delivery the Goods and/or provision of Services, as applicable, shall:

10.2.1 conform in all material respects with their description and any applicable Goods Specification and Service Specification; and

10.2.2 be free from material defects in design and workmanship.

- 10.3 Subject to clause 10.4, if:
- 10.3.1 the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods and/or Services do not comply with the warranty set out in clause 10.2;
 - 10.3.2 Mi-King is given a reasonable opportunity of examining such Goods; and
 - 10.3.3 the Customer (if asked to do so by Mi-King) returns such Goods to Mi-King's place of business at Mi-King's cost,
- Mi-King shall, at its option, repair or replace the defective Goods and/or provide replacement Services, or refund the price or issue a credit note for the defective Goods or Services in full, less any scrap value if Goods are retained at any Customer location.
- 10.4 Mi-King shall not be liable for the Goods' and/or Services failure to comply with the warranty in clause 10.1 or 10.2 if:
- 10.4.1 the Customer makes any further use of such Goods and/or Services after giving a notice in accordance with clause 10.3;
 - 10.4.2 the defect arises because the Customer failed to follow Mi-King's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods and/or Services or (if there are none) good trade practice;
 - 10.4.3 the defect arises as a result of Mi-King following any drawing, design or Goods Specification or Service Specification supplied by the Customer;
 - 10.4.4 the Customer alters or repairs such Goods without the written consent of Mi-King;
 - 10.4.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - 10.4.6 the Goods and or Services differ from the Goods Specification and/or Service Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards;
 - 10.4.7 the Customer has not paid for the Goods and/or Services;
 - 10.4.8 the defect arises as a result of incomplete, inaccurate or defective information or instructions provided by the Customer;
 - 10.4.9 the Goods are sold as 'non prime' goods in accordance with clause 6.
- 10.5 Except as provided in this clause 10, Mi-King shall have no liability to the Customer in respect of the Goods' or Services' failure to comply with the warranty set out in clause 10.1 or 10.2.
- 10.6 The terms of these Conditions shall apply to any repaired or replacement Goods and/or Services supplied by Mi-King under clause 10.3.
- 10.7 No statement or advice contained in the Goods Specification or Services Specification as to the suitability of the Goods and/or Services for any purpose shall give rise to any liability of Mi-King, except to the extent such exclusion is prohibited by law.
11. **CHARGES AND PAYMENT**
- 11.1 The price for Goods and Services shall be the price set out in the Order.
- 11.2 Mi-King reserves the right to:
- 11.2.1 increase the price of the Goods or Services, by giving notice to the Customer, to reflect any increase in the cost to Mi-King that is due to:
 - (a) any factor beyond the control of Mi-King (including foreign exchange fluctuations, increases in energy costs or related charges, increases in taxes and duties including border taxes and carbon border adjustment mechanism charges, and increases in labour, materials and other manufacturing costs);
 - (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, the Goods Specification or the Service Specification; and/or
 - (c) any delay caused by any instructions of the Customer in respect of the Goods, the Services or failure of the Customer to give Mi-King adequate or accurate information or instructions in respect of the Goods or Services.
- 11.3 In respect of Goods and Services, Mi-King shall invoice the Customer on or at any time after Delivery of the Goods or completion of the Services.
- 11.4 Unless otherwise agreed in writing in advance, the Customer shall pay each invoice submitted by Mi-King:
- 11.4.1 on or before the last day of the month following the month of delivery (**Due Date**); and
 - 11.4.2 in full and in cleared funds to a bank account nominated in writing by Mi-King, and

time for payment shall be of the essence of the Contract.

- 11.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Mi-King to the Customer, the Customer shall, on receipt of a valid VAT invoice from Mi-King, pay to Mi-King such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 11.6 Without limiting any other right or remedy of Mi-King, if the Customer fails to make any payment due to Mi-King under the Contract by the Due Date, Mi-King shall have the right to charge interest on the overdue amount at the rate of 4 per cent per annum above the then current Bank of England's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 11.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Mi-King in order to justify withholding payment of any such amount in whole or in part. Mi-King may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Mi-King to the Customer under this Contract and any other contract between the parties.
- 11.8 Mi-King will have, in addition to any other right or remedy available to it, a lien and power of sale over the Tooling or Customer owned Goods for any outstanding payments in connection with this Contract, or any other agreement between the parties. If any such sums remain unpaid (in full or in part) more than three (3) months after such payment becomes due, Mi-King, shall be entitled to:
- 11.8.1 retain the Tooling or Customer owned Goods in its possession until payment in full is made; or
- 11.8.2 dispose of the Tooling or Customer owned Goods in such manner and at such price as it sees fit on the expiry of twenty one (21) days' notice to the Customer in writing.
- 11.9 Mi-King will apply the proceeds of any disposal under clause 11.8 in the following order:
- 11.9.1 payment of the price for an outstanding goods and/or services falling due under this Contract;
- 11.9.2 payment of any remainder to the Customer.

12. **INTELLECTUAL PROPERTY RIGHTS**

- 12.1 All Intellectual Property Rights in or arising out of or in connection with the Goods and Services shall be owned by Mi-King.
- 12.2 To the extent that Mi-King advises or assists in the creation of the Tooling, all Intellectual Property Rights in or arising out of or in connection with such Tooling shall be owned jointly by the Customer and Mi-King.
- 12.3 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on Mi-King obtaining a written licence from the relevant licensor on such terms as will entitle Mi-King to license such rights to the Customer.

13. **CONFIDENTIALITY**

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 13 shall survive termination of the Contract.

14. **LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

- 14.1 Nothing in these Conditions shall limit or exclude Mi-King's liability for:
- 14.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 14.1.2 fraud or fraudulent misrepresentation;
- 14.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- 14.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- 14.1.5 defective products under the Consumer Protection Act 1987.
- 14.2 Subject to clause 14.1:
- 14.2.1 Mi-King shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:

- (a) any loss arising from or in connection with loss of revenues, profits, contracts or business or failure to realise anticipated savings; or
 - (b) any indirect or consequential loss arising under or in connection with the Contract.
- 14.2.2 Mi-King's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid for the Goods and/or Services.
- 14.3 For the avoidance of doubt, Mi-King shall not be liable to the Customer for any defects in the material of the Goods or Deliverables caused by their manufacture or material make-up.
- 14.4 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 14.5 This clause 14 shall survive termination of the Contract.
- 15. **TERMINATION**
- 15.1 Without limiting its other rights and remedies, each party may terminate the Contract with immediate effect by giving written notice **(excluding by fax or email)** to the other party if:
 - 15.1.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing of the breach;
 - 15.1.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - 15.1.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 15.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
 - 15.1.5 the other party (being an individual) is the subject of a bankruptcy petition or order;
 - 15.1.6 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 15.1.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
 - 15.1.8 a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 15.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 15.1.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.1.2 to clause 15.1.9 (inclusive);
 - 15.1.11 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
 - 15.1.12 the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 15.2 Without limiting its other rights and remedies, Mi-King shall have the right to suspend the supply of Services and all further deliveries of Goods under the Contract or any other contract between the Customer and Mi-King if:
 - 15.2.1 the Customer fails to pay any amount due under this Contract on the due date for payment; or
 - 15.2.2 the Customer becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.12, or Mi-King reasonably believes that the Customer is about to become subject to any of them; or
 - 15.2.3 Mi-King's performance of its obligations under the Contract is prevented or delayed by a Customer Default, until such a time as the Customer remedies the Customer Default.

- 15.3 Mi-King shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Mi-King's failure or delay to perform any of its obligations as a result of a Customer Default and the Customer shall reimburse Mi-King on written demand for any costs or losses sustained or incurred by Mi-King arising directly or indirectly from the Customer Default.

16. **CONSEQUENCES OF TERMINATION**

- 16.1 On termination of the Contract for any reason:

- 16.1.1 the Customer shall immediately pay to Mi-King all of Mi-King's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, Mi-King shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 16.1.2 the Customer shall return all of Mi-King's Goods and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Mi-King may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose;
- 16.1.3 the accrued rights and remedies of the parties as at termination shall not be affected, 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; and
- 16.1.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

17. **DISPUTE RESOLUTION**

- 17.1 If a dispute arises between the parties in relation to the operation or interpretation of this Agreement, the parties will attempt, in good faith, to reach settlement as soon as possible:

- 17.1.1 initially between each party's Key Contact (who shall be authorised to settle such a dispute);
- 17.1.2 if agreement has not been reached within fourteen days, either party may give written notice to the other giving details of the dispute and request a meeting between a director of each party; and
- 17.1.3 if agreement has not been reached within fourteen days of the meeting held in accordance with Clause 17.1.2 either party may give written notice to the other to request a meeting between the Chief Executive officer of each party to seek to settle the dispute.

- 17.2 The parties acknowledge and agree that the dispute resolution procedure set out in this Clause 17 will be followed prior to commencing any legal proceedings.

18. **GENERAL**

- 18.1 Force majeure:

- 18.1.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of Mi-King or its sub-contractors including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 18.1.2 Mi-King shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 18.1.3 If the Force Majeure Event prevents Mi-King from providing any of the Services and/or Goods for more than 24 weeks, Mi-King shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

- 18.2 Assignment and subcontracting:

- 18.2.1 Mi-King may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- 18.2.2 The Customer shall not, without the prior written consent of Mi-King, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

- 18.3 Notices:

- 18.3.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

- 18.3.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such address or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- 18.4 Waiver and cumulative remedies:
- 18.4.1 A waiver by Mi-King of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by Mi-King in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 18.4.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.
- 18.5 Severance:
- 18.5.1 If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 18.5.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 18.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 18.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 18.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by Mi-King.
- 18.9 Equality: In accordance with the Worker Protection (Amendment of Equality Act 2010) Act 2023, effective from 26 October 2024, Mi-King Ltd is committed to taking reasonable steps to prevent sexual harassment in all interactions with our employees, customers, and third parties. Any incidents of sexual harassment should be reported immediately to the General Manager or a Director. All reports will be taken seriously and investigated promptly and confidentially. Appropriate corrective actions will be taken to address and prevent recurrence. We expect all third parties, including customers and clients, to adhere to this policy. Any third-party found violating this policy will be subject to appropriate actions, including termination of business relationships.
- 18.10 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of England and Wales.