

The Wright Buy LTD (t/a Cookology)

Business Terms of Purchase

BACKGROUND

- (A) Cookology carries on the business of selling the Products, including under the Cookology and IceKing brands.
- (B) The Customer wishes to buy, and Cookology wishes to supply the Products on the terms and conditions set out in this Agreement.
- (C) This Agreement supersedes and overrides any other term agreed between the parties prior to entering into this Agreement.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation in this clause apply in this Agreement.

1.1 Definitions:

Commencement Date: the date at which this Agreement is signed by both parties.

Confidential Information: any information of a confidential nature concerning the business, assets, affairs, customers, clients or suppliers of the other party, including information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers.

Cookology: The Wright Buy Ltd, a company incorporated and registered in England and Wales with company number 06935623 whose registered office is at 7 Meadow Business Park, Piperell Way, Haverhill, Suffolk, United Kingdom, CB9 8QX (trading as 'Cookology').

Cookology Products: products manufactured by Cookology, under the Cookology brand.

Customer: the person or firm who purchases the Products from Cookology.

Delivery: completion of delivery of Products specified in an Order in accordance with clause 6.2.

Delivery Date: the date for delivery of Products specified in an Order Confirmation in accordance with clause 6.3.

Delivery Location: the address of the Customer for the Products to be delivered to, as set out in the Order.

Force Majeure Event: has the meaning given in clause 16.1.

IceKing Products: products manufactured by Cookology, under the IceKing brand.

IceKing and Cookology Products: the IceKing Products and the Cookology Products.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, 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, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.

Order: an order for Products submitted by the Customer in accordance with clause 4.

Order Number: the reference number to be applied to an Order by Cookology in accordance with clause 4.5.

Products: the Products ordered by and supplied to the Customer, including the IceKing and Cookology Products.

Product Prices: the trade prices of the Products as determined in accordance with clause 9.1 and Product Price means the trade price of an individual Product as determined in accordance with that clause.

Term: the term of the agreement, as determined in accordance with clause 2.

VAT: value added tax chargeable in the UK.

Websites: Cookology's websites, located at <https://cookology.com/> and www.ice-king.co.uk.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

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

1.4 A reference to a **company** includes any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

1.6 Unless the context otherwise requires, a reference to one gender includes a reference to the other genders.

1.7 This Agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party include that party's personal representatives, successors and permitted assigns.

1.8 Unless expressly provided otherwise in this Agreement, a reference to legislation or a legislative provision is a reference to it as it is in force as at the date of this Agreement.

1.9 A reference to **writing** or **written** excludes fax and email.

1.10 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

1.11 A reference to **this Agreement** or to any other agreement or document is a reference to this Agreement or such other agreement or document, in each case as varied from time to time.

1.12 References to clauses are to the clauses of this Agreement.

1.13 Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

2. APPLICATION

These terms and conditions shall apply to all contracts for the purchase of products by the Customer from Cookology to the exclusion of all other terms and conditions including any terms or conditions which the Customer may purport to apply under any sales offer or similar document.

3. COMMENCEMENT AND TERM

3.1 This Agreement commences on the Commencement Date and continues, unless terminated earlier in accordance with clause 14 (Term).

3.2 Subject to clause 5.1, during the Term, Cookology shall supply and the Customer shall purchase such quantities of Products as the Customer may order under clause 4 in accordance with the terms and conditions of this Agreement.

4. ORDERS

- 4.1** The Customer may place Orders for Products.
- 4.2** Each Order shall be in writing, in the form agreed between the parties, and include:
- 4.2.1** the Customer's name and contact details;
 - 4.2.2** a description of the Products ordered and the quantity; and
 - 4.2.3** a single Delivery Location.

For clarity, if the Customer requires Products at two different Delivery Locations, it must submit two different Orders, each having only one Delivery Location.

- 4.3** The Customer may cancel or amend an Order within 48 hours of placing it, provided always that Cookology has not issued an Order Confirmation, and subject to available stock levels.
- 4.4** Each Order shall be deemed to be a separate offer by the Customer to purchase Products on the terms of this Agreement, which Cookology shall be free to accept or decline at its absolute discretion.
- 4.5** No Order shall be deemed to be accepted by Cookology until it sends an order confirmation by email which will include an assigned Order Number (**Order Confirmation**). This Agreement shall become effective on the date that Cookology sends the Order Confirmation. Each party shall use the relevant Order Number in all subsequent correspondence relating to the Order.

5. QUALITY AND PACKING

- 5.1** Cookology will aim to maintain sufficient stocks of Products to enable it to pack and supply Orders, however various factors outside of its control may mean that stock shortages occur at any given time, and Cookology shall have no liability to the Customer for such stock shortages.
- 5.2** The images of the Products on the Websites are for illustrative purposes only. Cookology does not warrant or guarantee that the colours displayed on the Websites accurately reflects the colour of the Products.
- 5.3** Cookology shall ensure that the Products are properly packed and secured, however Cookology has no control over the goods in transit as this is carried out by a third party.
- 5.4** Cookology shall obtain and maintain in force for the Term all licences, permissions, authorisations, consents and permits needed to supply the Products in accordance with the terms of this Agreement.
- 5.5** Cookology shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the packing, packaging, marking, storage and handling of the Products.

6. DELIVERY

- 6.1** Cookology shall use reasonable endeavours to deliver the Products (or procure that the Products are delivered) to the Delivery Location on the Delivery Date.
- 6.2** 'Delivery' is completed on the completion of unloading of the Products at the Delivery Location. On completion of the unloading of the Products, the Customer shall sign and return to Cookology or its staff, representatives, agents or subcontractors a 'receipt of delivery' note, in the form requested by Cookology or its staff, representatives, agents or subcontractors.
- 6.3** Cookology shall include the Delivery Date in the Order Confirmation. Unless otherwise specified, generally, for:
- 6.3.1** standard Orders, Cookology will aim to deliver the Products to the Customer within 1 week of Cookology sending the Order Confirmation; and
 - 6.3.2** larger Orders (to be determined by Cookology at its absolute discretion), including those that require delivery via a freight container, Cookology will aim to deliver the Products to the Customer within 16 weeks of sending the Order Confirmation.

- 6.4** Delivery Dates are approximate only, and the time of delivery is not of the essence.
- 6.5** The Customer may request a specific date for delivery of the Products in their Order. Cookology may agree to the requested delivery date at its absolute discretion, however it cannot and does not guarantee that Products will be delivered on the date requested by the Customer.
- 6.6** Delivery charges may be payable by the Customer, at Cookology’s discretion. Cookology shall use reasonable endeavours to communicate any applicable delivery charges to the Customer ahead of delivery.
- 6.7** Cookology may deliver Orders by instalments, which may be invoiced and paid for separately or together, at Cookology’s discretion. References in this Agreement to Orders shall, where applicable, be read as references to instalments.
- 6.8** Delays in the delivery of an Order shall **not** entitle the Customer to:
- 6.8.1** refuse to take delivery of the Order;
 - 6.8.2** claim damages; or
 - 6.8.3** terminate this Agreement.
- Cookology shall have no liability for any failure or delay in delivering an Order to the extent that any such failure or delay is caused by the Customer’s failure to comply with its obligations under this Agreement.
- 6.9** If the Customer fails to take delivery of an Order on the Delivery Date, then, except where that failure or delay is caused by Cookology’s failure to comply with its obligations under this Agreement or a Force Majeure Event:
- 6.9.1** delivery of the Order shall be deemed to have been completed at 9.00am on the Delivery Date; and
 - 6.9.2** Cookology shall store the Order until the Customer takes possession of the Order, and charge the Customer for all storage and related costs and expenses (including insurance).
- 6.10** Each delivery of Products shall be accompanied by a delivery note from Cookology showing the Order Number, the date of the Order, the type and quantity of Products included in the Order and, in the case of Products being delivered by instalments, the outstanding balance of Products specified in an Order remaining to be delivered.

7. ACCEPTANCE, GUARANTEE AND DEFECTIVE PRODUCTS

- 7.1** The Customer may reject any Products delivered to it, provided that notice of rejection is given to Cookology in writing within 48 hours of delivery.
- 7.2** If the Customer fails to give notice of rejection in accordance with clause 7.1, it shall be deemed to have accepted the Products.
- 7.3** Cookology does not warrant that the Products comply with the laws, regulations or standards outside the UK.
- 7.4** Cookology provides a guarantee that on Delivery and for a period of:
- 7.4.1** 12 months from the date that the Customer themselves sells the Cookology Products, or
 - 7.4.2** 24 months from the date that the Customer themselves sells the IceKing Products, (in each case being the “**Sale Date**”), and provided always that the Sale Date is within 1 year of the Delivery Date, that such IceKing and Cookology Products shall:
 - 7.4.3** subject to clause 5, conform in all material respects with their description; and
 - 7.4.4** be free from material defects in design, material and workmanship.
- 7.5** The guarantee provided by Cookology under clause 7.4 is only valid and applicable where the IceKing and Cookology Products are used in a residential setting and/or premises. For clarity,

no guarantee is provided by Cookology in connection with any Products where they are used in a commercial setting and/or premises.

7.6 Subject to clause 7.7, if:

7.6.1 the Customer provides Cookology with notice in writing within a reasonable time of discovery that some or all of the IceKing and Cookology Products do not comply with the guarantee set out in clause 7.4;

7.6.2 Cookology is given a reasonable opportunity of examining the IceKing and Cookology Products; and

7.6.3 Cookology is permitted to collect the IceKing and Cookology Products, Cookology will, at its sole and absolute option, repair or replace the defective IceKing and Cookology Products, or refund the price of the defective IceKing and Cookology Products in full.

7.7 Cookology will not be liable for breach of the guarantee set out in clause 7.4 if:

7.7.1 the Customer makes any further use of the IceKing and Cookology Products after giving notice to Cookology under clause 7.5;

7.7.2 the defect arises as a result of Cookology following any drawing, design or specification supplied by the Customer;

7.7.3 the Customer alters or repairs the IceKing and Cookology Products without Cookology's written consent;

7.7.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

7.7.5 the IceKing and Cookology Products differ from their description or specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

7.8 Cookology will only be liable to the Customer for the IceKing and Cookology Products' failure to comply with the guarantee set out in clause 7.4 to the extent set out in this 7.

7.9 Cookology provides no guarantee in connection with any Products which are not the IceKing and Cookology Products. For clarity, for any guarantee claims for Products which are not the IceKing and Cookology Products, the Customer agrees to contact the original equipment manufacturer.

7.10 Except as expressly stated in this Agreement, Cookology does not give any representations, warranties or undertakings in relation to the Products. Any representation, condition or warranty which might be implied or incorporated into this Agreement by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, Cookology will not be responsible for ensuring that the Products are suitable for the Customer's purposes.

7.11 This Agreement shall also apply to any repaired or replacement Products supplied by Cookology to the Customer.

8. TITLE AND RISK

8.1 Risk in Products shall pass to the Customer on Delivery.

8.2 Title to Products shall not pass to the Customer until Cookology receives payment in full (in cash or cleared funds) for the Products and all other sums that are or that become due to Cookology from the Customer for sales of Products or on any account, in which case title to these Products shall pass at the time of payment of all such sums.

8.3 Until title to Products has passed to the Customer, the Customer shall:

8.3.1 store those Products separately from all other goods held by the Customer so that they remain readily identifiable as Cookology's property;

8.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to those Products;

8.3.3 maintain those Products in satisfactory condition and keep them insured on Cookology's behalf for their full price against all risks with an insurer that is reasonably acceptable to Cookology. The Customer shall obtain an endorsement of Cookology's interest in the Products on its insurance policy, subject to the insurer being willing to make the endorsement. On request the Customer shall allow Cookology to inspect the insurance policy; and

8.3.4 give Cookology such information as Cookology may reasonably require from time to time relating to:

8.3.4.1 the Products; and

8.3.4.2 the ongoing financial position of the Customer.

8.4 Subject to clause 8.5, the Customer may resell or use Products in the ordinary course of its business (but not otherwise) before Cookology receives payment for the Products. However, if the Customer resells the Products before that time

8.4.1 it does so as principal and not as Cookology's agent; and

8.4.2 title to those Products shall pass from Cookology to the Customer immediately before the time at which resale by the Customer occurs.

8.5 At any time before title to the Products passes to the Customer, Cookology may:

8.5.1 by notice in writing, terminate the Customer's right under clause 8.4 to resell the Products or use them in the ordinary course of its business; and

8.5.2 require the Customer to deliver up all the Products in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the relevant Products are stored in order to recover them.

9. PRODUCT PRICES

9.1 The Product Prices shall be communicated by Cookology to the Customer in writing from time to time and may be subject to change at any time at Cookology's discretion. Where the Product Prices change in between the Customer placing an Order and the Order being delivered, Cookology will endeavour to invoice for the Products in accordance with the Product Prices at the time the Customer placed the Order.

9.2 The Product Prices are exclusive of amounts in respect of VAT. The Customer shall, on receipt of a valid VAT invoice from Cookology, pay to Cookology any additional amounts in respect of VAT as are chargeable on a supply of Products.

9.3 The Product Prices are inclusive of the costs of packaging, insurance and carriage of the Products.

9.4 Cookology may apply a discount to the Order at its absolute discretion. Any discount applied shall be communicated to the Customer in the Order Confirmation.

10. TERMS OF PAYMENT

10.1 Cookology shall invoice the Customer for each Order when the Order Confirmation is sent or at any time thereafter. Each invoice shall quote the relevant Order Numbers.

10.2 The Customer shall pay invoices in full and in cleared funds within 30 days of receipt. Cookology may vary the payment period at its absolute discretion. Payment shall be made to the bank account nominated in writing by Cookology.

10.3 If the Customer fails to make a payment due to Cookology under this Agreement by the due date, then 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%.

10.4 If the Customer disputes any invoice or other statement of monies due, the Customer shall immediately notify Cookology in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. Cookology shall provide all evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within 30 days of the Customer giving notice to Cookology, the dispute shall be resolved by the appointment of an independent assessor by Cookology. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in clause 10.2.

10.5 All amounts due under this Agreement 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).

11. PRODUCT RECALL

11.1 If the Customer is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Products from the market (**Recall Notice**) it shall immediately notify Cookology in writing enclosing a copy of the Recall Notice.

11.2 Unless required by law, the Customer may not undertake any recall or withdrawal without the written permission of Cookology and only then in strict compliance with Cookology's instructions about the process of implementing the withdrawal.

12. LIMITATION OF LIABILITY

12.1 Cookology has obtained insurance cover in respect of certain aspects of its own legal liability for its obligations under this Agreement. The limits and exclusions in this clause reflect the insurance cover Cookology has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess liability.

12.2 References to liability in this clause 12 include every kind of liability arising under or in connection with this Agreement including liability:

12.2.1 in contract, tort (including negligence), misrepresentation, restitution or otherwise; and

12.2.2 arising out of any use made or resale of the Products by the Customer, or of any product incorporating any of the Products.

12.3 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

12.4 Nothing in this clause 12 shall limit the Customer's payment obligations under this Agreement.

12.5 Nothing in this Agreement limits any liability which cannot legally be limited, including liability for:

12.5.1 death or personal injury caused by negligence;

12.5.2 fraud or fraudulent misrepresentation; or

12.5.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession).

12.6 Subject to clause 12.3 and clause 12.5, Cookology's total liability to the Customer shall not exceed the lesser of a sum equal to:

12.6.1 the Products Prices set out in the relevant Order, and actually paid by the Customer to Cookology, in respect of any liability arising from or in connection with a single Order; or

12.6.2 the total Product Prices actually paid by the Customer to Cookology in the 12 months before the date of the event giving rise to the liability, in respect of any liability arising from or in connection with multiple Orders.

12.7 The caps on Cookology's liabilities shall be reduced by:

12.7.1 payment of an uncapped liability; and

12.7.2 amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.

12.8 Cookology has given commitments as to compliance of the Products with relevant specifications in clause 7.4. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from this Agreement.

12.9 Unless a party notifies the other party that it intends to make a claim in respect of an event within the notice period, the other party shall have no liability for that event. The notice period for an event shall start on the day on which the party wishing to make a claim became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire 2 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

13. CONFIDENTIALITY

13.1 Each party undertakes that it shall not at any time during this Agreement and for a period of 3 years after termination or expiry of this Agreement disclose to any person any Confidential Information, except as permitted by clause 13.2.

13.2 Each party may disclose the other party's Confidential Information:

13.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13; and

13.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Neither party may use the other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

13.4 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this Agreement are granted to the other party, or to be implied from this Agreement.

14. TERMINATION AND SUSPENSION

14.1 Without affecting any other right or remedy available to it, Cookology may terminate this Agreement with immediate effect by giving written notice to the Customer if:

14.1.1 the Customer fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

14.1.2 the Customer commits a material breach of any other term of this Agreement and that breach is irremediable or (if that breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

14.1.3 the Customer repeatedly breaches any of the terms of this Agreement in such a manner to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;

14.1.4 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts

within the meaning of section 123 of the Insolvency Act 1986 as if the words “it is proved to the satisfaction of the court” did not appear in sections 123(1)(e) or 123(2);

14.1.5 the Customer begins 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 any of its creditors;

14.1.6 the Customer applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;

14.1.7 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company, limited liability partnership or partnership);

14.1.8 an application is made to court, or an order is made, for the appointment of an administrator or a notice of intention to appoint an administrator is given or an administrator is appointed over the Customer;

14.1.9 the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;

14.1.10 a person becomes entitled to appoint a receiver over all or any of the assets of the Customer or a receiver is appointed over all or any of the assets of the Customer;

14.1.11 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

14.1.12 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.1.4 to clause 14.1.11 inclusive;

14.1.13 the Customer ceases, or threatens to cease, to carry on all or substantially the whole of its business; or

14.1.14 the Customer’s financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy; or

14.1.15 there is a change of control of the Customer (within the meaning of section 1124 of the Corporation Tax Act 2010).

14.2 Without affecting any other right or remedy available to it, Cookology may terminate this Agreement on giving not less than 1 months’ written notice to the Customer.

14.3 Without affecting any other rights or remedies available to it, Cookology may suspend provision of the Products under the agreement or any other contract between the Customer and Cookology if the Customer becomes subject to any of the events listed in clause 14.1.4 to clause 14.1.12, or Cookology reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Agreement on the due date for payment.

15. OBLIGATIONS ON TERMINATION

On termination of this Agreement:

15.1 the Customer shall immediately pay to Cookology all of Cookology’s outstanding unpaid invoices and interest and, in respect of the Products supplied but for which no invoice has been submitted, Cookology may submit an invoice, which shall be payable immediately on receipt; and

15.2 each party shall promptly:

15.2.1 return to the other party all documents and materials (and any copies) containing the other party’s Confidential Information;

15.2.2 erase all the other party's Confidential Information from its computer systems (to the extent possible); and

15.2.3 on request, certify in writing to the other party that it has complied with the requirements of this clause 15.

16. FORCE MAJEURE

16.1 Force Majeure Event means any circumstance not in a party's reasonable control including:

16.1.1 acts of God, flood, drought, earthquake or other natural disaster;

16.1.2 epidemic or pandemic;

16.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

16.1.4 nuclear, chemical or biological contamination, or sonic boom;

16.1.5 any law or action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition;

16.1.6 collapse of buildings, fire, explosion or accident;

16.1.7 any labour or trade dispute, strikes, industrial action or lockouts;

16.1.8 non-performance by suppliers or subcontractors; and

16.1.9 interruption or failure of utility service.

16.2 Cookology shall not be liable for any failure or delay in performing any of its obligations under this Agreement for so long as, and to the extent that, its performance is prevented, hindered or delayed by a Force Majeure Event.

16.3 If Cookology has not resumed full performance of any obligations suspended under clause 16.2 within 90 days after giving notice of the start of the Force Majeure Event, the Customer may terminate this Agreement by giving written notice to Cookology.

17. GENERAL

17.1 Assignment and other dealings

17.1.1 Cookology may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under this Agreement.

17.1.2 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 this Agreement without the prior written consent of Cookology.

17.2 Entire agreement

17.2.1 This Agreement constitutes the entire agreement between the parties.

17.2.2 Each party acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it has no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

17.3 Variation

Except as set out in this Agreement, no variation of this Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by Cookology (or its authorised representative).

17.4 Waiver

17.4.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

17.4.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.

17.5 Severance

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is deemed deleted under this clause 17.5, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

17.6 Survival

17.6.1 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

17.6.2 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or 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 this Agreement which existed at or before the date of termination or expiry.

17.7 No partnership or agency

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of Cookology, or authorise any party to make or enter into any commitments for or on behalf of Cookology. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

17.8 Notices

AA notice given to a party under or in connection with this Agreement must be in writing sent to that party's address by a delivery service providing proof of delivery; or may be sent by e-mail to that party's e-mail address provided that proof of receipt is obtained. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

17.9 Third party rights

Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

17.10 Governing law

This Agreement 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 the law of England and Wales.

17.11 Jurisdiction

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