1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

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

Conditions: these terms and conditions as amended from time to time in accordance with clause 19.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods or Services or Goods and Services in accordance with these Conditions.

control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be interpreted accordingly.

Customer: the person or firm who purchases the Goods or Services or Goods and Services from the Supplier.

Deliverables: the deliverables set out in the Order produced by the Supplier for the Customer.

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any relevant plans or drawings, issued by the Supplier from time to time.

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, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's order for the supply of Goods or Services or Goods and Services.

Polypipe Group of Companies: any subsidiary of Polypipe Limited, or any subsidiary of any subsidiary of Polypipe Limited.

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification.

Service Specification: the description or specification for the Services provided in writing by the Supplier to the Customer.

Supplier: Polypipe Limited, trading as Domus, registered in England and Wales with company number 01099323.

1.1 Interpretation:

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

(b) A reference to a party includes its personal representatives, successors and permitted assigns.

(c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

(d) 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.

(e) A reference to **writing** or **written** excludes fax but not email.

2. Basis of contract

2.1 Unless otherwise specifically agreed in writing by the Supplier, these Conditions shall apply to the provision of all Goods and/or Services to the Customer.

2.2 The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services in accordance with these Conditions.

2.3 If a quotation has been provided the quotation shall not constitute an offer and shall only be valid for the period of time stated on the quotation or, in the absence of any stated validity period, shall be valid for a period of 28 days from the quotation date.

2.4 The Order shall only be deemed to be accepted on the sooner of:

(a) the Supplier communicating a formal acceptance of the Order (an **Order Acknowledgement**); or

(b) the Supplier despatching any Goods forming part, or all, of the Order; or

(c) the Supplier commencing any Services forming part, or all, of the Order;

at which point and on which date the Contract shall come into existence (**Commencement Date**). For the avoidance of all doubt, the Supplier shall be under no obligation to accept any Order.

2.5 Once an Order has been accepted, and the Contract formed, the Customer shall not be entitled to amend or cancel the Order without the prior written consent of the Supplier. If such consent is granted the Customer shall be liable to the Supplier for the Supplier's costs incurred as a direct result of any such amendment or cancellation.

2.6 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Contract nor have any contractual force.

2.7 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, in any form, or which are implied by law, trade custom, practice or course of dealing.

2.8 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

3. Goods

3.1 The Goods are described in the Goods Specification.

3.2 To the extent that any of the Goods are to be manufactured in accordance with a specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Supplier's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Goods Specification:

(a) Without notice to the Customer if the amendments to do not result in any reduction in functionality of the Goods, or that in the reasonable opinion of the Supplier is non-material;

(b) By giving the Customer not less than 2 weeks' notice if the amendments are material in nature, or will result in any reduction in functionality of the Goods; or

(c) On written notice to the Customer if required by any applicable statutory or regulatory requirement.

4. Drawing Approval

4.1 The Supplier shall endeavour to issue design drawings to the Customer to enable the Customer to approve them as soon as possible. The parties acknowledge that on occasion it may not be reasonably possible for the Supplier to issue the design drawings prior to the issue of the Order Acknowledgement.

4.2 If an Order Acknowledgement is issued before any design drawings are approved by the Customer, its issue will constitute an acceptance of the order from the Customer once the Customer approves the Supplier's design drawings in writing. In these circumstances the Customer agrees there is a separate collateral contract with the Supplier that imposes an obligation on the Customer to use its reasonable efforts to approve the relevant design drawings as soon as reasonably possible (the consideration for which is the issue of the design drawings by the Supplier).

5. Delivery of Goods

5.1 The Supplier shall ensure that:

(a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

(b) if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

5.2 Delivery of the Goods shall be completed as per the Order or, in the absence of any specific delivery terms in the Order, shall be completed EXW Incoterms®2020.

5.3 Delivery of the Goods shall be completed on the completion of unloading, or where appropriate, loading of the Goods at the Delivery Location.

5.4 The Supplier shall allow one hour standing/unloading time for each delivery vehicle after which standing/unloading time will be charged at the hourly rate applicable per vehicle for each whole hour or part hour thereafter.

5.5 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5.6 The Customer may postpone a delivery by giving 5 Business Days written notice to the Supplier.

5.7 For the avoidance of all doubt, all deliveries exclude the hire of hoists, cranes, site placement, commissioning and setting to work.

5.8 If the Supplier fails to deliver 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. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5.9 If the Customer fails to take, or accept, delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

(b) the Supplier shall store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance and re-delivery).

5.10 The quantity of any consignment as recorded by the Supplier upon despatch shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide reasonable conclusive evidence to the contrary.

5.11 The signing of a delivery note is deemed to be acceptance of the Goods with regard to the arrival and number of items delivered.

5.12 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken, or accepted, actual delivery of them, the Supplier may 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.

5.13 Once delivery has been completed in accordance with the Contract the Supplier shall, save for as detailed elsewhere in these Conditions, have no obligation to accept any returns of any Goods delivered. Should the Customer wish to return any Goods, without cause, acceptance of any such returns shall be at the Supplier's sole discretion and shall be subject to:

(a) a restocking fee, on a per item basis, determined by the Supplier at the time. The restocking fee shall not amount to more than 25% (excluding VAT) of the total price of the Goods returned; and

(b) a charge equalling the value of any depreciation in the returned Goods attributable to any damage, or wear and tear, caused to the Goods whilst at the Customer's risk.

5.14 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract and additional delivery charges for each delivery shall be charged. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5.15 The Customer may only return Goods to the Supplier after Delivery with the prior written agreement of the Supplier and any return is at the Supplier's sole discretion. All Goods shall be returned at the Customer's risk and expense and will be subject to inspection and testing. A re-stocking charge based on a percentage of the price of the returned Goods will be invoiced to the Customer for any returned Goods accepted by the Supplier.

6. Delivery Inspections

6.1 The Customer shall have no claim for loss, shortages or damage on delivery which are or would be apparent on inspection unless the Customer:
(a) unpacks and inspects the Goods as soon as reasonably practicable following receipt;
(b) notifies the Supplier of any loss, shortages or damage (otherwise than by a qualified signature on the delivery note) within 10 Business Days of the date of delivery; and
(c) demonstrates to the satisfaction of the Supplier that such loss, shortages or damage occurred prior to delivery.

6.2 The Customer shall have no rights in respect of loss, shortages or damage unless the Supplier is given a reasonable opportunity to inspect the Goods in question and investigate any complaint before any use of or alteration to or interference with the Goods.

6.3 On a valid complaint made in accordance with this clause 5 the Customer shall be entitled:
(a) in the case of notified shortages, to receive within a reasonable time thereafter a delivery of Goods equivalent to the shortfall; or
(b) in the case of defects, at the Supplier's discretion, to:
(i) repairs to the affected Goods; or
(ii) replacements of the affected Goods;
(iii) a credit for the price of the affected Goods
and the Supplier shall have no further liability whatsoever in respect of any such complaint.

6.4 If a complaint of loss, shortages or damage on delivery is not made to the Supplier in accordance with this Clause 5 within 10 Business Days of the date of delivery, then the Goods shall be deemed to be delivered complete and undamaged in accordance with the Contract.

7. Export Terms

7.1 If any Goods are to be delivered outside the United Kingdom the provisions of this clause shall apply and the transport of Goods outside the United Kingdom will be governed by the relevant Incoterms agreed by the parties.

7.2 Unless otherwise agreed between the parties, the full Order value shall be secured by an irrevocable letter of credit satisfactory to the Supplier, established by the Customer in favour of the Supplier immediately upon the acceptance of an Order as outlined in clause 2.4, and confirmed by a bank acceptable to the Supplier. The letter of credit shall be for the full value of the relevant Order (together with any tax or duty payable) payable to the Supplier and shall be valid for not less than three months. The Supplier shall be entitled to payment within the time-scale agreed between the parties in writing on presentation of the relevant Contract documentation to the Supplier's nominated bank.

7.3 Unless otherwise agreed in the Order, or in writing between the parties, the Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any applicable duties, or the application, and payment for, any required licences.

7.4 Notwithstanding the terms of clause 7.1 the Supplier shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

8. Quality of Goods

8.1 The Supplier shall carry out testing on all Goods in accordance with its manufacturing and quality management processes. If the Customer requires supplementary tests or witness testing, then the Supplier shall be granted an extension of time to any timescales in the Contract to facilitate such tests and shall be entitled to recover any additional costs reasonably incurred.

8.2 Where specifically stated in the Goods Specification, the Goods shall come with the Supplier's standard warranty, a copy of which is available on request.

8.3 Save for where specifically detailed in these Conditions, all other warranties, whether express, or implied, are hereby excluded to the furthest extent possible in law.

8.4 Without prejudice to clause 7.1, the Supplier warrants that on delivery, and for a period of 6 months from the date of delivery (**Warranty Period**), the Goods shall:
(a) conform in all material respects with the Goods Specification;
(b) be within the tolerances allowed by relevant BSI and/or ISO standards;
(c) be free from material defects in design, material and workmanship; and
(d) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979.

8.5 Subject to clause 7.5, if:
(a) the Customer gives notice in writing to the Supplier during the Warranty Period, and within a reasonable time of discovery, that some or all of the Goods do not comply with the warranty set out in clause 7.1;
(b) the Supplier is given a reasonable opportunity of examining such Goods; and
(c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,
the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full. This shall be the Customer's sole remedy for any breach of the warranty set out in clause 7.1.

8.6 Save for as expressly outlined in these Conditions, no statement or undertaking contained in any national standard, national addition of a European standard, ISO standard, or other standard or technical specification as to the suitability of the Goods for any purpose shall give rise to any legal liability of the Supplier, except to the extent such exclusion is prevented by law.

8.7 The Goods and any Services are supplied subject to an disclaimers, notifications, warnings, or limitations that may be included within the Specification, or as part of any documentation prepared by the Supplier and provided to the Customer under the Contract.

8.8 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 7.1 if:
(a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 7.4;
(b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;
(c) the Customer has breached any of its obligations in the Contract or as set out in the Supplier's operating manual, the Supplier's document known as the "Warranty Guidance Notes document NA-QS-W040-0" (or other product or technical information available from the Supplier's website) from time to time;
(d) the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
(e) the Customer alters or repairs such Goods without the written consent of the Supplier;
(f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
(g) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

8.9 Except as provided in this clause 7, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 7.1.

8.10 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

9. Title and risk

9.1 The risk in the Goods shall pass to the Customer on completion of delivery.

9.2 Title to the Goods shall not pass to the Customer until the earlier of:
(a) the Supplier receiving payment in full (in cash or cleared funds) for the Goods in which case title to the Goods shall pass at the time of payment; and
(b) the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 8.4.

9.3 Until title to the Goods has passed to the Customer, the Customer shall:
(a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
(b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
(c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
(d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 15.1(b) to clause 15.1(d); and
(e) give the Supplier such information as the Supplier may reasonably require from time to time relating to:
(i) the Goods; and
(ii) the ongoing financial position of the Customer.

9.4 Subject to clause 8.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
(a) it does so as principal and not as the Supplier's agent; and
(b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

9.5 At any time before title to the Goods passes to the Customer, the Supplier may:
(a) by notice in writing, terminate the Customer's right under clause 8.4 to resell the Goods or use them in the ordinary course of its business; and
(b) require the Customer to deliver up all Goods 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 Goods are stored in order to recover them.

10. Supply of Services

10.1 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.

10.2 The Supplier shall use reasonable endeavours to meet any performance dates for the Services specified in the Order, or as agreed between the parties from time to time, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

10.3 Where, pursuant to the Services, the Supplier makes recommendations to the Customer, including recommendations relating to compliance with the BSA, such recommendations will be based on the information available to the Supplier's representatives as at the time any such recommendation is provided, and shall be given to the best of the Supplier's knowledge of the matter in question. Save for where the recommendation explicitly falls within the scope Services being provided, or the Goods being supplied, any such recommendations are for guidance only and the Supplier shall have no liability to the Customer arising from the Customer following such recommendations without first having consulted a relevant expert in the matter in question.

10.4 Where any aspect of the Services involves the Supplier undertaking visits to any premises under the control of the Customer for the purposes of undertaking a pre-assessment of such premises the Customer shall inform the Supplier of all material information relating to the premises that may impact the pre-assessment being undertaken including, but not limited to, ground conditions, location of utilities, any hazards (whether physical or otherwise), and any plans to change the premises in the near future. Without prejudice to the generality of clause 10.2, the Supplier shall have no liability to the Customer if any such information is not provided, or if any information provided is not thorough or accurate.

10.5 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

10.6 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

11. Customer's obligations

11.1 The Customer shall:

(a) ensure that the terms of the Order and any information it provides in either or both the Service Specification and the Goods Specification are complete and accurate;
(b) be wholly responsible for ensuring that any measurements, information, schematics, documentation, or specifications provided to the Supplier are accurate and warrants and represents that the Supplier shall be entitled to rely on anything provided to it by the Customer without further interrogation;
(c) be wholly responsible for ensuring that any Goods, or Services, provided under the Contract are compliant with the requirements of the BSA, where applicable. For the avoidance of all doubt, the Supplier is not an expert in relation to compliance with the requirements of the BSA and makes no warranties, representations, guarantees, or assurances in this regard;
(d) co-operate with the Supplier in all matters relating to the Services;
(e) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
(f) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
(g) prepare the Customer's premises for the supply of the Services;
(h) ensure that all relevant Customer personnel are aware of the Supplier's activities under the Contract, including, but not limited to:
(i) any deliveries of Goods; and
(ii) the performance of any Services.
(i) pro-actively inform the Supplier of any information regarding the site where the Services are to be provided that may be relevant to the Services including, but not limited to, site conditions, ground conditions, utilities on or in the vicinity of the site, and any potential hazards on or in the vicinity of the site;
(j) ensure the site where the Goods are to be delivered and/or the Services performed is suitable for such delivery and/or performance for the entire period in which the Supplier may be on site;
(k) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
(l) comply with all applicable laws, including health and safety laws;
(m) keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and
(n) comply with any additional obligations as set out in the Service Specification or the Goods Specification or both.

11.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
(a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right, without liability to the Customer, to suspend performance of the Services until after the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
(b) the Supplier shall not be liable for any and all costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 10.2; and
(c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

12. Charges and payment

12.1 The price for Goods:
(a) shall be the price set out in the Order or, if no price is quoted, the price set out in the Supplier's published price list as at the date of delivery; and
(b) shall, unless otherwise outlined in the Order, be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Customer.

12.2 Unless otherwise agreed in the Order, or between the parties in writing, the charges for Services shall be calculated on a time and materials basis:
(a) the charges shall be calculated in accordance with the Supplier's rates, as set out in any quotation provided by the Supplier;
(b) if working to a day rate, the Supplier's daily fee rates for each individual person are calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days;
(c) the Supplier shall be entitled to charge an overtime rate of 50% of the daily fee rate on a pro rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 11.2(b); and
(d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

12.3 The Supplier reserves the right to increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:
(a) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, 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, or the Goods Specification; or
(c) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods. In respect of Goods, where the Customer is based outside of the United Kingdom the Supplier shall invoice the Customer at the time the Customer is notified that the Goods are ready for collection or, in all other cases, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer as outlined in the Order or, in the absence of any specific detail on the Order, on completion of the Services.

12.4 The Supplier reserves the right to complete credit checks as against the Customer and, by entering into the Contract, the Customer consents to the Supplier undertaking such credit checks.

12.5 The Supplier shall be entitled, at its discretion, to require the Customer to pay for any Goods, or Services, in full, or in part, prior to the delivery of the Goods, or the commencement of any of the Services.

12.6 Without prejudice, and subject to, clause 11.6, the Customer shall pay each invoice submitted by the Supplier:
(a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
(b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and
time for payment shall be of the essence of the Contract.

12.7 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 the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods or both, as applicable, at the same time as payment is due for the supply of the Services or Goods.

12.8 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 15:
(a) The Supplier shall be entitled, without liability to the Customer, to suspend delivery of all Goods not yet delivered to the Customer; or
(b) The Supplier shall be entitled, without liability to the Customer, to suspend performance of any Services not yet performed; and
(c) 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 11.9 will accrue each day at 6% a year above the Bank of England's base rate from time to time, but at 6% a year for any period when that base rate is below 0%.

12.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

13. Intellectual property rights

13.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.

13.2 Save for as explicitly stated, nothing in the Contract shall serve to assign, transfer, or licence any Intellectual Property Rights owned by the Supplier, or any Polypipe Group Company.

13.3 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.

13.4 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 12.3 without the Supplier's written consent.

13.5 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

14. Data protection

14.1 The following definitions apply in this clause 13:
(a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures**: as defined in the Data Protection Legislation.
(b) **Data Protection Legislation**: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

14.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

14.3 Where the Supplier is acting as a Processor on behalf of the Customer, and without prejudice to the generality of clause 13.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Customer for the duration and purposes of the Contract.

15. Limitation of liability

15.1 References to liability in this clause 14 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

15.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
(a) death or personal injury caused by negligence;
(b) fraud or fraudulent misrepresentation;
(c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
(d) defective products under the Consumer Protection Act 1987.

15.3 Subject to clause 14.2, the Supplier's total liability to the Customer shall not exceed the value of the Contract.

15.4 The Supplier shall, in no circumstances, be liable to the Customer for any of the following types of losses:
(a) loss of profits;
(b) loss of revenue;
(c) loss of sales or business;
(d) loss of agreements or contracts;
(e) loss of anticipated savings;
(f) loss of use or corruption of software, data or information;
(g) loss of or damage to goodwill; and

(h) indirect or consequential loss.

15.5 The Supplier has given commitments as to compliance of the Goods and Services with relevant specifications in clause 7 and clause 9. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

15.6 This clause 14 shall survive termination of the Contract.

16. Termination

16.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

16.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

(a) the Customer fails to pay any amount due under the Contract on the due date for payment; or

(b) there is a change of control of the Customer.

16.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 15.1(b) to clause 15.1(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

17. Consequences of termination

17.1 On termination of the Contract:

(a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods and Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

(b) the Customer shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier 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 not connected with this Contract.

17.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

17.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

18. Confidentiality

18.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 17.2.

18.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives, contractors or subcontracts 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 the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 17; and

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

18.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

19. Force majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 8 weeks, the party not affected may terminate the Contract by giving 7 days' written notice to the affected party.

20. General

20.1 **Assignment and other dealings**

(a) The Supplier may at any time, on written notice to the Customer, assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract to any member of the Polypipe Group of Companies.

(b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

20.2 **Notices.**

(a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

(b) Any notice shall be deemed to have been received:

(i) if delivered by hand, at the time the notice is left at the proper address; or

(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

20.3 **Severance.** If any provision or part-provision of the Contract 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 the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 19.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

20.4 **Waiver**.

(a) Except as set out in clause 2.8, 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.

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

20.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

20.6 **Entire agreement.**

(a) The Contract constitutes the entire agreement between the parties.

(b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

20.7 **Third party rights**.

(a) The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

(b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

(c) Except as set out in clause 19.1(a), the Contract is personal as between the Supplier and the Customer and shall not apply to any supplies made to the Customer by any other member of the Polypipe Group of Companies, with any such supplies being subject to their own contract.

20.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

20.9 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

20.10 **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 the Contract or its subject matter or formation.