

CONDITIONS OF ORDER

THE PARTIES:

This agreement is between Marley Limited (hereinafter referred to as the "Company"), located at Lichfield Road, Branston, Burton on Trent, DE14 3HD and whose registered number is 11519291

And

.....
..... **(hereinafter referred to as the "Supplier"), having its registered office at**
.....

.....
..... **..., and whose registered number is**

Together the "Parties" (or individually known as the "Party") are both interested in carrying out business in "Purposes"

MARLEY LIMITED ("THE COMPANY") IS ONLY WILLING TO PURCHASE GOODS OR HAVE SERVICES CARRIED OUT FOR IT BY A SUPPLIER ("THE SUPPLIER") UNDER THESE TRADING TERMS OR UNDER THESE TERMS WITH VARIATIONS AGREED BY THE COMPANY IN WRITING OR UNDER TERMS NEGOTIATED WITH A SUPPLIER, AND THEN CONFIRMED IN WRITING BY THE COMPANY. REFERENCES TO MARLEY GROUP COMPANIES SHALL INCLUDE ALL MARLEY "GROUP COMPANIES" AS DEFINED BY THE COMPANIES ACT 2006 SCHEDULE 4.

1. CREATION OF CONTRACT

- a) No contract shall be taken as formed except by the Company placing an Order, in its standard form, accepting delivery or allowing the Supplier to start providing the service.
- b) Performance of the contract in whole or in part by the Supplier shall constitute and be deemed to be an unconditional and unqualified acceptance by the Supplier of these terms and Conditions appearing on the face of the order and its acknowledgement and they supersede over-ride and oust:
 - i. all previous negotiations, representations or agreements between the parties
 - ii. any other terms and conditions in any document or other communication used by the Company or the Supplier.
- c) Each oral or written statement or representation by the Supplier, whether made before or after the formation of the contract, and to include all representations in their publications and advertising material, which are believed by the Company to have been made by or on behalf of the Supplier in connection with the goods and/or services to be supplied shall be a term of the contract.

2. CONDITIONS OF TRADING

- a) In so far as these conditions conflict with the conditions contained or referred to in the Suppliers quotation, tender or otherwise these conditions shall always prevail. Any purported imposition by the Supplier of its trading Conditions whether on its acknowledging an order placed by the Company or otherwise shall be of no effect.
- b) No variation of or addition to these Conditions shall form part of any contract unless required by the Company prior to the contract being formed or specifically by the Company in writing at any time.
- c) The Supplier will ensure that the goods or services comply with all applicable legal requirements including those relating to Health & Safety and the Control of Hazardous Substances and will provide the Company with such information relating thereto as it may require.
- d) The conditions and warranties implied by the Supply of Goods (Implied Terms) Act 1973, by the Sales of Goods Act 1979 and by the Supply of Goods and Services Act 1982 (and by any other applicable legislation in force from time to time) shall apply to all goods or services supplied under this contract except where inconsistent with other terms herein contained when the latter shall prevail.
- e) No change in specification of goods and or services to be supplied whatsoever shall be made unless required by or previously accepted in writing by the Company.
- f) The Company shall have the right at any time to increase or decrease the amount of the goods ordered to vary the services to be supplied and a reasonable alteration to the price payable shall be made to reflect such increase

or variation. Such alteration shall, if not agreed by the Company and the Supplier, be determined by the Company.

- g) The Company shall have the right to cancel any order it has placed at any time and if it does so it shall not be obliged to make any payment to its Supplier by way of damages or otherwise except for goods actually delivered or services actually performed prior to such cancellation.

3. PRICES AND PAYMENT

- a) The price shall be as stated in the Company's order and therefore shall not be subject to increase and/or variation unless agreed by the Company in writing. Delivery of the goods and/or supply of the services shall never depend upon payment first being made.
- b) Payment will be due at the end of the month following the month of invoice plus thirty five days in which the Supplier's invoice completed as required by Clause 3(d) hereof is received by the Company. No invoices shall be sent to the Company until complete fulfilment of the order by the Supplier and the Company shall not be obliged to make any stage payment or part payment to the Supplier in the period before fulfilment of the order by the Supplier, unless agreed in writing by the Company. The Company shall not be liable to pay interest on any outstanding balance due to any Supplier.
Any additional terms including those relating to discount for prompt payment appearing on the face of the order shall form part of the Contract.
- c) The Company reserves the right to deduct from any amount due or becoming due to the Supplier, and any sum (of whatever nature and whether relating to a liquidation claim or not) due or which the Company determines is likely to become due from the Supplier to the Company and/or any other Company which is a Marley Group Company.
- d) All invoices, statements and correspondence must state the Order number and date. Payment shall not be made unless correctly completed invoices are received.

4. PROPERTY, RISK AND INSURANCE

- a) The property and risk shall pass to the Company in accordance with Incoterm DDP (Delivered Duty Paid): where the Supplier delivers goods (or causes them to be delivered) at the moment when the unloading of goods at the Company's premises or at a location agreed with the Company is completed and the delivery ticket is signed by an authorised representative of the Company. All unloading shall be free of charge to the Company.
- b) Supplier shall keep the goods fully insured against all risks normally insured against at least throughout the period between the risk therein passing to the Company and the title therein ceasing to remain with the Supplier.
- c) The property and risk in any goods rejected by the Company shall revert to the Supplier immediately on its being notified of the rejection.

5. DELIVERY DATES

- a) The Supplier shall ensure that goods are delivered in accordance to Incoterm DDP on the stipulated date and time and at the stipulated place and time shall always be of the essence. Delivery to a carrier shall not constitute delivery to the Company.
- b) Where the Supplier is carrying out services for the Company it shall do so on such dates and times as are required by the Company or to a programme agreed in writing with the Company.
- c) The Company shall have the right to put off any delivery date or dates on which the goods or services are to be supplied.
- d) If the Supplier requires a minimum notice period before being able to supply then it shall so notify the Company before the contract is formed.
- e) Where goods are agreed to be delivered by instalments then if the Supplier is in breach of contract in respect of any one instalment, the Company shall always be at liberty to treat that breach as a repudiation of the whole contract.

6. ASSIGNABILITY

The Supplier shall not assign the benefit or the burden of the contract to any person without the consent of the Company in writing. If an assignment is made a payment to the Supplier or the assignee will nonetheless constitute a valid discharge to the company.

7. WARRANTY, INDEMNITY AND CLAIMS

- a) In the event of a breach of any of the terms of the contract by the Supplier at any time the Company shall be entitled to rescind the contract or claim damages or both without prejudice to any other legal remedy which may be available.
- b) The Company shall not be deprived of the right to rescind the Contract or reject the goods or services should the goods or services be found to be defective in any way. This shall be the case even if the goods have been examined and an indication given that they are accepted.
- c) Should the Company have a claim against the Supplier then it shall not be limited by the terms of any product warranty or otherwise but may include all direct or consequential losses and costs whether foreseeable or not.
- d) The Supplier will indemnify and keep indemnified the Company in respect of any claims, proceedings, liabilities, damages, costs and expenses of whatsoever nature made against or incurred by the Company arising out of the supply of goods and/or service by the Supplier or its failure to observe the terms contained herein or by the supply of such goods by the Company to its customer(s).
- e) The Supplier is deemed to have notice of the purpose for which goods or services are required and warrants that
 - i. all goods supplied shall be fit for purpose and of merchantable quality, shall be new and unused, shall be free from defect in design material and workmanship and shall comply with all specifications, drawings, samples or other descriptions furnished by or on behalf of the Company.
 - ii. All services supplied shall be of a standard acceptable to the Company and shall always be carried out on such dates and times as are required by these Conditions.
 - iii. All goods shall be properly packed and secured in accordance with the Company's requirements and the delivery documentation shall set out the Order number, delivered quantity and other information previously required by the Company to be on the delivery documentation.
 - iv. The Company may require the Supplier to supply free of charge and without unnecessary delay information relating to the goods or their manufacture including Certificates of Conformity and Statistical Process Control Data.

8. HEALTH AND SAFETY, ENVIRONMENTAL & CSR

- a) The Supplier shall be deemed to have full knowledge of the Company safety manual and of any policies, codes of practice or other instructions prepared by the Company in relation to Health & Safety, Quality, Environmental, CSR & Responsible Sourcing, (copies of which will be supplied on request) and of the Supplier's duties in accordance with the provisions of the Health and Safety at work etc. Act 1974, the Consumer protection Act 1987 and any other applicable legislation all of which are incorporated into all contracts when applicable.
- b) The Supplier shall keep the Company indemnified against any claims, liability, damages, costs and expenses arising directly or indirectly from all use of the Goods in accordance with such Health and Safety instructions etc.

9. DATA PROTECTION (GDPR)

- a) The Company and the Supplier shall at all times comply with their respective obligations under the General Data Protection Regulation (EU) 2016/679 and/or all applicable laws, rules, regulations, and all applicable data protection legislation in relation to personal data that is processed by that party in the course of performing its obligations under this contract.
- b) When the Supplier is a service provider, the Supplier will act as a processor and the Company will act as the data controller as defined in General Data Protection Regulation (EU) 2016/679. The Supplier shall process personal data only insofar as required by the relevant data controller and solely in order to provide the Company with the services as required by the data controller, implementing and observing all instructions from the data controller to ensure compliance in respect to security, confidentiality, data subject rights, transparency and termination of data processing activities.
- c) The Company, as data controller, warrants that all instructions provided to the Supplier are lawful and in accordance with General Data Protection Regulation (EU) 2016/679. The Supplier as service provider agrees to sign and observe at all times the terms of the standard personal data controller-processor agreement prior to providing its services. A copy of this agreement will be provided by the Company to the service provider upon its first demand.

10. HIRE OF GOODS

These conditions shall also apply so far as they are relevant to contracts of hire and the word "Supplier" shall be construed as including the supplier of goods for hire. The Company's sole responsibility shall be to pay the hire charge and to return the hired goods in the condition in which they were hired (fair wear and tear expected) and the Company shall have no other liability whatsoever.

11. FORCE MAJEURE

The Company shall not be liable for any loss or damage caused by non-performance or delay in the performance of any of its obligations to the Supplier due to act of God, war, civil disturbance, government action, strike, lock

out or trade dispute (whether involving its own employees or those of any other person), difficulties in obtaining materials, breakdown in machinery, fire or accident or any other causes whatsoever beyond the control of the Company. Should any such event occur the Company reserves the right to cancel or suspend the contract with the Supplier without incurring any liability for any loss or damage thereby occasioned.

12. TERMINATION BY COMPANY

The Company may by notice in writing to the Supplier terminate any contract forthwith if:

- i. the supplier shall commit any breach of any terms of this or any other contract with the Company or other Marley Group Company and on its part to be observed and performed;
- ii. the supplier compounds with or negotiates with any of its creditors or generally;
being an individual the Supplier shall die or have a Receiving Order made against him or commits an act of bankruptcy or enters into voluntary arrangement; or
- iii. being a company the Supplier shall call any meeting of its creditors or have a Receiver or Administrator appointed or enters into any form of liquidation.

The provisions above and the exercise by the Company of its rights thereunder are without prejudice to any other rights of the Company.

13. GENERAL

- a) Any notice required or permitted to be given by the Supplier under this contract shall be sent in writing by recorded or registered post and addressed to the Purchasing Department at its registered office (Lichfield Road, Branston, Burton-on-Trent, DE14 3HD) or to such other address as may be notified to the Supplier from time to time.
- b) If any provision of this contract is found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted or modified, the provision in question shall apply with such modification(s) as may be necessary to make it valid.

14. LAW AND JURISDICTION

The construction validity and performance of all contracts shall be governed and interpreted according to the laws of England and any claim or dispute arising therefrom shall be subject to the nonexclusive jurisdiction of the English Courts.



Signed on the..... day of.....20.....for and on behalf of the Supplier

.....Signature.

.....Name (Please Print).

.....Designation.

Witnessed by:

.....Signature

.....Name (Please Print).

.....Designation.

Signed on the..... day of.....20.....for and on behalf of the Company

.....Signature.

.....Name (Please Print).

.....Designation.

Witnessed by:

.....Signature

.....Name (Please Print).

.....Designation.