

GENERAL TERMS AND CONDITIONS OF PURCHASE

1. Definitions and Interpretation

1.1 In these terms and conditions the following expressions shall unless the context otherwise requires have the following meanings: -

"Bespoke Contract"	means a contract individually negotiated by Torque and the Seller and recorded in a document duly signed by Torque and the Seller.
"Conditions"	means the terms and conditions set out in this document;
"Contract"	means the agreement between Torque and the Seller for the sale and purchase of Goods and/or the supply of the Services created by the placing of an Order and includes a Bespoke Contract;
"Delivery Address"	means the address stated as such in the Order including, where required by Torque, loaded upon Torque's transportation at such address;
"Goods"	means the goods described in an Order;
"Torque"	means Torque Logistics Limited or Torque Retail Services Limited as stated in the Order;
"Torque Group"	means any company within the same group of companies as Torque as the term 'group' is defined in Section 1159 of the Companies Act 2006;
"Order"	means a communication from Torque to the Seller expressly being an order for purchase;
"Price"	means the price of the Goods and/or the charge for the Services which is set out in the Order and is inclusive of all packaging, handling, loading, shipping, insurance or other charges;
"Seller"	means the seller of the Goods and/or the supplier of the Services who is set out in the Order;
"Services"	means the services (if any) to be provided by the Seller which are described in an Order and (if appropriate) any training to be provided under Condition 10;
"Specification"	means any specification relating to the Goods and/or the Services.

1.2 Where the context so admits references in these Conditions to the plural shall include references to the singular and references to any gender shall include the others.

1.3 The headings used in these Conditions are for convenience only and shall not affect the validity or construction of these Conditions.

1.4 References to a statutory provision shall be construed as references to any statutory modification or re-enactment of it (whether before, on or after the date of the Contract) for the time being in force and to any former statutory provision replaced (with or without

modification) by the provision referred to and shall include all statutory instruments or orders from time to time made pursuant to it.

2. Status of the Order and of these Conditions

2.1 The Order constitutes agreement by Torque to purchase Goods and/or acquire Services subject to these Conditions.

2.2 Subject to Conditions 2.4 and 8.1 these Conditions shall apply to each Contract to the exclusion of any other terms or conditions on which any quotation has been given to Torque or any other company belonging to the Torque Group or which the Seller otherwise purports to introduce.

2.3 No variation to the Order, to the Contract or to these Conditions shall be binding unless agreed in writing between the authorised representatives of Torque and the Seller.

2.4 Where a Bespoke Contract has been made for the supply of Goods and/or Services the terms and conditions contained within it shall prevail over these Conditions to the extent of any inconsistency between them.

2.5 The taking of an Order by the Seller shall constitute the Seller's unconditional confirmation and acceptance that in respect of all prior supplies by the Seller to Torque of goods and/or services for which Torque has tendered the full principal sum payable Torque has no further payment obligation whatsoever whether of principal or interest.

3. Price

3.1 The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise stated, shall be:

- (a) exclusive of any applicable Value Added Tax (which shall be payable by Torque subject to receipt of a VAT invoice); and
- (b) inclusive of all charges for packaging, freight, carriage, insurance, delivery and any installation of the Goods and any product of the Services at the Delivery Address and any duties, tariffs, taxes or levies other than Value Added Tax.

3.2 The Price may not be increased without Torque's prior written consent.

3.3 The Seller shall indicate clearly on the face of any invoice submitted to Torque in respect of the Contract whether any of the Goods or Services are zero-rated for the purposes of VAT and shall also show on the invoice any discounts, discounts for bulk purchases, deductions and the value of any gifts, inducements or goods and/or services provided in connection with the Contract at no charge to Torque.

4. Payment

4.1 Unless otherwise stated in the Order, the Seller shall invoice Torque on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice of the Seller shall clearly identify the Order to which the invoice relates.

4.2 Torque shall pay the Price no later than the 25th day of the month following the month in which it receives a validly submitted invoice. Without prejudice and subject to its rights under Conditions 5.2, 5.3, 5.4, 8.3 and 11.2, if Torque is not satisfied with the Goods and/or

Services it shall be entitled without penalty of interest until resolution to withhold payment stating its reasons.

4.3 In the event that Torque fails to make payment within the period specified in Condition 4.2 the Seller may charge interest on the amount outstanding until payment at the rate of Barclays plc's base rate from time to time plus 4%, to the exclusion of all other compensation for late payment; The Late Payment of Commercial Debts (Interest) Act 1998 shall not apply to any Contract.

4.4 Any sums owed to Torque or any other company belonging to the Torque Group by the Seller may be offset against the Price by Torque.

5. Delivery

5.1 The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order. The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.

5.2 If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract shall be treated as single and not severable.

5.3 Torque may, at any time before or after delivery or performance, inspect and approve the Goods or Services and the Seller shall permit Torque to inspect and approve the Goods or Services during manufacture, preparation or performance at reasonable times and upon reasonable notice (taking into account the urgency of Torque's requirements) but no such inspection or approval shall relieve the Seller of any of its obligations.

5.4 Torque shall be entitled to reject any of the Goods or Services delivered which are not in accordance with the Contract and Torque shall not be deemed to have accepted any of the Goods or Services until Torque has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods or Services has become apparent.

5.5 The Seller shall provide Torque with any instructions or other information which may be necessary to enable Torque to prepare the Delivery Address in good time for delivery of the Goods or performance of the Services and will give a full and clear written indication of any Goods or Services which may be hazardous or toxic and instructions as to how such Goods or Services are to be safely handled or treated.

5.6 The Seller shall be responsible for collecting any rejected Goods or the product of any rejected Services or any Goods delivered which are in excess of the quantity mentioned in the Order and shall reimburse any costs incurred by Torque in respect of storage or otherwise.

5.7 Torque shall not be obliged to safeguard or return to the Seller any packaging or packing materials for the Goods or any products of the Services, whether or not they are accepted by Torque, unless such packaging or packing materials are clearly marked "returnable", show the Seller's name and address and are invoiced separately and credited in full upon their return.

6. Risk and Title

6.1 Risk of damage to or loss of the Goods or any products of the Services shall pass to Torque upon safe delivery in accordance with the Contract. Pending such delivery, the Seller shall maintain sufficient insurance cover against risk of loss or damage to the Goods or any products of the Services.

6.2 Title to and property in the Goods or any products of the Services shall pass to Torque upon delivery, unless payment is made prior to delivery, when title and property shall pass to Torque once payment has been made; in such case the Goods will be separately and securely stored and clearly marked and identifiable as the property of Torque. In each case passing of title shall be without prejudice to any right of rejection which Torque might have.

7. Specifications

7.1 The quantity, quality and description of the Goods and the Services shall be as specified in the Order and in any applicable Specification provided by Torque to the Seller or agreed by the duly authorised officer of Torque in writing.

7.2 The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging and delivery of the Goods and the performance of the Services.

8. Warranties and Liability

8.1 The Seller repeats the warranties and guarantees contained in its promotional literature and quotations and/or which it customarily provides to its customers and further warrants to Torque that the Goods and any products of the Services:

- (a) will be of satisfactory quality and fit for any purpose held out by the Seller or made known to or by Torque in writing at the time the Order is placed or at any time up to the placing of the Order;
- (b) will be free from defects in design, material and workmanship;
- (c) will answer any description provided by the Seller whether in brochures, advertisements or elsewhere and whether orally or in writing;
- (d) will correspond with any relevant Specification or sample; and
- (e) will comply with all statutory requirements, regulations and conditions relating to their sale, use and safety.

8.2 The Seller warrants to Torque that the Services will be performed by appropriately qualified and trained personnel, with all due care and diligence and to the highest standards of quality that Torque may expect in all the circumstances.

8.3 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then Torque shall be entitled:

- (a) to require the Seller at no cost to Torque, to repair the Goods or any products of the Services or to supply replacement Goods or Services in accordance with the Contract within 7 days; or

(b) at Torque's sole option, and whether or not Torque has previously required the Seller to repair the Goods or any products of the Services or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid.

8.4 The Seller shall indemnify Torque in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by Torque or any other member of the Torque Group as a result of or in connection with:

- (a) breach of any warranty given by the Seller in relation to the Goods or the Services;
- (b) any claim that the Goods or the Services infringe, or their importation, use or resale, infringes, the patent, copyright, database right, design right, trade mark or other intellectual property or analogous rights of any other person, except to the extent that the claim results directly from compliance with any Specification supplied by Torque;
- (c) any liability under the Consumer Protection Act 1987 in respect of the Goods or the Services;
- (d) any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods or any products of the Services;
- (e) any act or omission of any of the Seller's personnel in connection with the performance of the Services; and
- (f) failure to comply with applicable data protection legislation and regulations.

8.5 In the event of any claims brought by an employee or employees of Torque or of any other member of the Torque Group in respect of any loss or injury resulting from the Goods or their use and/or the performance of the Services, the Seller shall give all such assistance at its own expense as may be necessary to compensate the said employee or employees.

8.6 The warranties given in Condition 8.1 and indemnities given in Condition 8.4 shall continue to apply and to benefit Torque notwithstanding any use made of the Goods by any company other than Torque which is a member of the Torque Group.

9. Tools and Designs

Any tools, patterns, plates, designs or other items supplied by Torque or any other member of the Torque Group to the Seller, or for which Torque or any other member of the Torque Group has provided the whole or a part of the cost, to enable the Seller to execute the Contract ("relevant goods") shall become and/or remain the property of Torque or that member of the Torque Group, shall be kept in good condition and returned on demand at the Seller's risk and shall not be used by the Seller without the agreement in writing of Torque for any purpose other than for the supply of the Goods and/or the Services to Torque. The Seller shall indemnify Torque against any loss or damage to any relevant goods whilst they are at the Seller's risk.

10. Training

The Seller shall where necessary provide full training in the proper and safe use and maintenance of the Goods and any products of the Services to such members of staff of

Torque or of other member(s) of the Torque Group as may be designated by Torque, the cost of such training to be included in the Price unless otherwise indicated on the front page of this document.

11. Termination

11.1 Torque shall be entitled to cancel the Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery or performance, in which event Torque's sole liability shall be to pay to the Seller the Price for the Goods or Services in respect of which Torque has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation.

11.2 Torque shall be entitled to terminate the Contract by giving notice to the Seller at any time if:

- (a) the Seller is in breach of its obligations under the Contract; or
- (b) the Seller makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction), or a receiver, administrator or administrative receiver is appointed, of any of the property or assets of the Seller; or the Seller ceases, or threatens to cease, to carry on business.

12. Force Majeure

Neither the Seller nor Torque shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure was beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:

- (a) Act of God, explosion, flood, tempest, fire or accident;
- (b) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- (c) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- (d) import or export regulations or embargoes;
- (e) strikes, lock-outs or other industrial actions or trade disputes (whether involving employees or either the Seller or Torque or of a third party).

13. Confidentiality

13.1 The Seller shall treat as strictly confidential all information (whether technical or commercial) obtained from Torque or from any other company within the Torque Group pursuant to the Contract, and shall only use such information for the purpose of fulfilling its obligations under the Contract and shall not divulge such information to any third party (except to (i) such of the Seller's employees, agents, contractors or sub-contractors who need to know the same and provided the said employees, agent, contractors or sub-contractors maintain such secrecy; and (ii) any persons having a right, duty or obligation in law to know

the same and then only in pursuance of such right, duty or obligation) without Torque's prior consent provided that this clause shall not extend to information:

- (a) which was rightfully in the possession of the Seller prior to the commencement of negotiations leading to the Contract;
- (b) which is already public knowledge or becomes so otherwise than as a result of a breach of this clause; or
- (c) which is trivial or obvious.

13.2 The foregoing obligations shall survive any termination of the Contract.

14. Torque and the Torque Group

Torque is a member of the Torque Group and accordingly Torque may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of the Torque Group, provided that any act or omission of any such other member shall be deemed to be the act or omission of Torque.

15. Assignment

15.1 The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

15.2 Torque shall be entitled to assign the benefit and burden of the Contract to any other company which is a member of the Torque Group.

16. Notices and Invoices

16.1 With the exception of invoices, all notices and communications related to the Contract sent by either party to the other shall be in writing and sent by recorded delivery or registered post addressed to the recipient's Registered Office (or where no registered office exists to its main place of business) or via email to an email address provided by one party to the other for that purpose.

16.2 In respect of any invoice relating to the Contract in order for it to be deemed validly submitted it must be sent by either or both of:

- (i) recorded delivery or registered post to The Purchase Ledger Department, The Torque Building, Wortley Moor Road, Wortley, Leeds, LS12 4JH;
- (ii) email to purchase.ledger@torque.eu which must include a request for a delivery receipt and/or read receipt in order to provide proof of delivery.

16.3 For the avoidance of doubt, the time period for payment as specified in condition 4.2 shall only begin upon receipt of a validly submitted invoice and not from any date stated upon that invoice.

17. Waiver

If at any time Torque elects not to assert its rights under any provision of the Contract, such action or lack of action in that respect shall not be construed as a waiver of its rights under the said provision or of any other provision of the Contract.

18. Law and Dispute Settlement

18.1 The Contract and these Conditions shall be governed by, and construed in accordance with, English law.

18.2 The courts of England and Wales shall be the forum having jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes which may arise out of or in connection with the Contract or these Conditions and for such purposes the Seller irrevocably submits to the jurisdiction of such courts and irrevocably waives any objection it may have now or hereafter to the courts of England and Wales as the appropriate forum.

19. Third Parties

A party which is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce the benefit of any term of that Contract and to the extent permitted by law the parties exclude the application of such Act to that Contract.