

## Muntons plc

### Terms and Conditions for the Sale of Goods

The Buyer's attention is in particular drawn to the provisions of Condition 10.4.

#### 1. INTERPRETATION AND DEFINITIONS

1.1 The definitions and rules of interpretation in this Condition 1.1 apply in these Terms and Conditions of Sale (the "Conditions").

**Business Day:** means a day in the week on which clearing banks in London are open for business but excluding Saturdays, Sundays and public holidays.

**Buyer:** the person, firm or company who purchases the Goods from Muntons.

**Contract:** any contract between Muntons and the Buyer for the sale and purchase of the Goods, incorporating these Conditions.

**Delivery Point:** the place where delivery of the Goods is to take place under Condition 4.

**Goods:** means malt and/or malt based products or ingredients manufactured or supplied by Muntons and any other goods as agreed to be sold by Muntons in the Contract (including any part or parts of them).

**Muntons:** means Muntons plc whose company number is 00176992 and whose registered office is located at Cedars Maltings, Stowmarket, Suffolk, IP14 2AG or any holding company or subsidiary of any holding company of Muntons plc which accepts the Order.

**Order:** means the Buyer's written instruction to buy the Goods as set out in the order, incorporating these Conditions and stating the Buyer's purchase order number.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these Conditions.

#### 2. APPLICATION OF TERMS, ORDERS AND SPECIFICATION

2.1 Subject to any variation under Condition 2.3 the Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

- 2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These Conditions apply to all Muntons' sales and any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of Muntons. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Muntons or a Muntons representative which is not set out in the Contract or which is not confirmed in writing by Muntons, including but not limited to, representations governing the shelf life, storage, application and use of the Goods. Muntons shall not be liable for any such advice or recommendation which is not so confirmed in writing. Nothing in this Condition shall exclude or limit Muntons' liability for fraudulent misrepresentation.
- 2.4 Each Order or acceptance of a quotation for Goods by the Buyer from Muntons shall be deemed to be an offer by the Buyer to buy Goods subject to these Conditions.
- 2.5 Each Order for Goods by the Buyer shall be subject to availability of stock and confirmation of price by Muntons.
- 2.6 No Order placed by the Buyer shall be deemed to be accepted by Muntons until a written acknowledgement of Order is issued by Muntons or (if earlier) Muntons delivers the Goods to the Buyer.
- 2.7 Any quotation is given on the basis that no Contract shall come into existence until Muntons despatches an acknowledgement of Order to the Buyer. Any quotation is valid for a period of 14 days only from its date unless otherwise stated (provided that Muntons has not previously withdrawn it) after which time it may be altered by Muntons.
- 2.8 The Buyer shall ensure that the terms of its Order and any applicable specification are complete and accurate and are provided within a sufficient time to enable Muntons to perform the Contract in accordance with its terms.
- 2.9 If the Goods are to be manufactured or any process is to be applied to the Goods by Muntons in accordance with a specification submitted by the Buyer, or utilising tooling, software or other goods or equipment supplied by the Buyer, the Buyer shall indemnify Muntons against all loss, damages, costs and expenses awarded against or incurred by Muntons in connection with or paid or agreed to be paid by Muntons in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from Muntons' manufacture in accordance with the Buyer's specification or use of such tooling, software or other goods or equipment.
- 2.10 Muntons reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to Muntons' specification, which do not materially affect their quality or performance.

- 2.11 Save as set out in Condition 13 below no Contract may be cancelled by the Buyer without the express agreement of Muntons in writing. Such agreement shall be subject to the Buyer indemnifying Muntons in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Muntons as a result of cancellation.

### **3. DESCRIPTION**

- 3.1 The quantity, quality and description of the Goods shall be as set out in Muntons' quotation, acknowledgement of order or Contract documentation (as amended from time to time). Any error of omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by Muntons, be it of a typographical, clerical or other form, shall be subject to correction without any liability on the part of Muntons.
- 3.2 All samples, drawings, descriptive matter, specifications and advertising issued by Muntons and any descriptions or illustrations contained in Muntons' catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

### **4. DELIVERY**

- 4.1 Unless otherwise agreed in writing by Muntons, delivery of the Goods shall take place at Muntons' place of business during office hours, at any time after Muntons has notified the Buyer that the Goods are ready for collection or, if another place of delivery is agreed by Muntons, by Muntons delivering the Goods to that place.
- 4.2 The Buyer shall take delivery of the Goods within 5 Business Days of Muntons giving notice that the Goods are ready for delivery.
- 4.3 Any dates specified by Muntons for delivery of the Goods are intended to be an estimate and time of delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 4.4 Subject to the other provisions of these Conditions any delay in the delivery of the Goods (even if caused by Muntons negligence), shall not entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 30 days.
- 4.5 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or Muntons is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations then, without prejudice to any other right or remedy available to Muntons:
- (a) risk in the Goods shall pass to the Buyer (including for loss or damage caused by Muntons' negligence);
  - (b) the Goods shall be deemed to have been delivered; and

- (c) Muntons may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance); and
  - (d) Muntons reserves the right to sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Buyer for any shortfall below the price under the Contract.
- 4.6 If delivery is delayed by industrial dispute or any circumstances beyond Muntons' control then the periods for delivery shall be extended by such a period as is reasonable in the circumstances. Should any delay continue for a period exceeding six months then, unless the parties agree to the contrary, the Contract shall be deemed to be terminated without any claim for compensation against Muntons.
- 4.7 The Buyer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for the loading/unloading of the Goods.
- 4.8 If Muntons delivers to the Buyer a quantity of Goods of up to 5% more or less than the accepted quantity ordered by the Buyer, the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and the quantity delivered shall be deemed to be the quantity ordered without any adjustment in the unit price.
- 4.9 Muntons may deliver the Goods by separate instalments. Each separate delivery shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.10 Each delivery shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.
- 4.11 If Muntons fails to deliver the Goods for any reason (other than due to the Buyer's fault or a cause beyond Muntons' reasonable control), and Muntons is accordingly liable to the Buyer, Muntons' liability shall be limited to the reasonable excess (if any) of the cost to the Buyer of purchasing replacement or similar goods to replace those not delivered (in the cheapest available market) over the price of the Goods.
- 5. NON-DELIVERY**
- 5.1 The quantity of any consignment of Goods as recorded by Muntons on despatch from Muntons' place of business shall be conclusive evidence of the quantity received by the Buyer on delivery.
- 5.2 Muntons shall not be liable for any non-delivery of Goods (even if caused by Muntons negligence) unless the Buyer gives written notice to Muntons of the non-delivery within 2 Business Days of the date when the Goods would in the ordinary course of events have been received.

5.3 Any liability of Muntons for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

## **6. RISK/TITLE**

6.1 The Goods are at the risk of the Buyer from the time of delivery which shall be:-

- (a) where the Goods are to be delivered at Muntons' premises, at the time when Muntons notifies the Buyer that the Goods are available for collection; or
- (b) where the Goods are to be delivered otherwise than at Muntons' premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when Muntons has tendered delivery of the Goods.

6.2 Ownership of the Goods shall not pass to the Buyer until Muntons has received in full (in cash or cleared funds) all sums due to it in respect of:

- (a) the Goods; and
- (b) all other sums which are or which become due to Muntons from the Buyer on any account.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

- (a) hold the Goods on a fiduciary basis as Muntons' bailee;
- (b) store the Goods (at no cost to Muntons) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as Muntons' property;
- (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- (d) maintain the Goods in satisfactory Condition and keep them insured on Muntons' behalf for their full price against all risks to the reasonable satisfaction of Muntons. On request the Buyer shall produce the policy of insurance to Muntons.

6.4 If the Buyer shall not insure the Goods or shall fail to supply details of its policy on demand to Muntons then the Buyer shall reimburse Muntons for the cost of any insurance which Muntons may reasonably arrange in respect of any of the Goods during the whole or any part of the period from the date of Muntons' delivery of the Goods until the date of payment to Muntons of the price.

6.5 The Buyer may resell the Goods, subject to Muntons informing the Buyer to the contrary, before ownership has passed to it solely on the following Conditions:

- (a) any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
- (b) any such sale shall be a sale of Muntons' property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

- 6.6 The Buyer's right to possession of the Goods shall terminate immediately, and all monies owing to Muntons shall become immediately due and payable if:
- (a) the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
  - (b) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under the Contract or any other contract between Muntons and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or
  - (c) the Buyer encumbers or in any way charges any of the Goods.
- 6.7 Muntons shall be entitled to require the Buyer to deliver up the Goods to Muntons at any time until title in the Goods has passed to the Buyer (subject to the Goods being in existence and not having been resold) and, if the Buyer fails to do so forthwith, Muntons reserves the right to enter upon any premises of the Buyer or any third party where the Goods are stored, to repossess the Goods.
- 6.8 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of Muntons, but if the Buyer does so all moneys owing by the Buyer to Muntons shall (without prejudice to any other right or remedy of Muntons) forthwith become due and payable.
- 6.9 Muntons shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from Muntons.
- 6.10 The Buyer grants Muntons, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
- 6.11 Where Muntons is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by Muntons to the Buyer in the order in which they were invoiced to the Buyer.

6.12 On termination of the Contract, howsoever caused, Muntons (but not the Buyer's) rights contained in this Condition 6 shall remain in effect.

## **7. PRICE**

7.1 The price for the Goods shall be the price set out in Muntons' acknowledgement of Order.

7.2 Muntons reserves the right, at any time before delivery, by giving notice following consultation with the Buyer, to increase the price of the Goods to reflect any increase in the cost to Muntons which is due to any factor beyond the control of Muntons, any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give Muntons adequate information or instructions.

7.3 Goods, unless otherwise stated under any Order or agreed in writing between the parties, are supplied on an ex-works basis and where Muntons agrees to deliver the Goods, the Buyer shall be liable to pay Muntons charges for transport, packaging and insurance. The price for the Goods shall be exclusive of any value added tax and where Muntons agrees to deliver the Goods all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

7.4 Muntons reserves the right to charge the costs of plastic pallets and returnable containers to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to Muntons.

## **8. PAYMENT**

8.1 Muntons shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event Muntons shall be entitled to invoice the Buyer for the price at any time after Muntons has notified the Buyer that the Goods are ready for collection or (as the case may be) Muntons has tendered delivery of the Goods.

8.2 Subject to Condition 8.9 and subject to the Buyer having a satisfactory credit rating (as adjudged by Muntons at its sole discretion), payment of the price for the Goods is due in pounds sterling or such other currency as agreed, within 21 days of the date of Muntons' issued invoice. Muntons reserves the right to apply shorter payment terms for any Buyers regarded by Muntons (in its sole discretion) as having an unsatisfactory credit rating.

8.3 Time for payment shall be of the essence.

8.4 If the Buyer fails to pay Muntons any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to Muntons on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays

Bank Plc, accruing on a daily basis until payment is made, whether before or after any judgment. Muntons reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

- 8.5 Notwithstanding clause 8.4, if the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Muntons, Muntons shall be entitled to:-
- (a) cancel the Contract or suspend any further deliveries to the Buyer; and
  - (b) appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and Muntons) as Muntons may think fit (notwithstanding any purported appropriation by the Buyer).
- 8.6 Muntons reserves the right to charge the Buyer for all additional costs incurred in recovering any amounts outstanding,
- 8.7 No payment shall be deemed to have been received until Muntons has received cleared funds.
- 8.8 Receipts for payment will only be issued upon request.
- 8.9 All payments payable to Muntons under the Contract shall become due immediately on its termination despite any other provision.
- 8.10 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by Muntons to the Buyer.
- 8.11 For the avoidance of doubt, payments shall be applied by Muntons in the following order:
- (a) Interest calculated in accordance with Condition 8.4;
  - (b) Outstanding invoices in chronological order.

## **9. QUALITY**

- 9.1 Where Muntons is not the manufacturer of the Goods, Muntons shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to Muntons.
- 9.2 Muntons warrants that (subject to the other provisions of these Conditions) on delivery the Goods shall:
- (a) correspond with any specification confirmed in writing between the Buyer and Muntons as amended in accordance with Condition 2.8;
  - (b) be of satisfactory quality within the meaning of the Sale of Goods Act 1979;

- (c) be reasonably fit for purpose;
- (d) be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to Muntons in writing and Muntons has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgement of Muntons.

9.3 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to Muntons within 7 Business Days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after the discovery of the defect or failure. If the Buyer does not notify Muntons accordingly, the Buyer shall not be entitled to reject the Goods and Muntons shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

9.4 Muntons shall not be liable for a breach of any of the warranties in Condition 9.2 if:

- (a) the Buyer makes any further use of such Goods after giving such notice; or
- (b) the defect arises because the Buyer failed to follow Muntons' oral or written instructions as to the storage, fails to use or sell the Goods within the stated shelf life, or fails to follow good trade practice in dealing with the Goods; or
- (c) the Buyer misuses, or further processes such Goods; or
- (d) for any defect where the Goods have been used in circumstances where their failure could directly endanger life; or
- (e) for any defect arising from negligence or abnormal working conditions.

If the Buyer does not notify Muntons in accordance with Condition 9.3, the Buyer shall not be entitled to reject the Goods and Muntons shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

9.5 Subject to Condition 9.3 and Condition 9.4, if any of the Goods do not conform with any of the warranties in Condition 9.2 Muntons shall at its option replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if Muntons so requests, the Buyer shall return the Goods or the part of such Goods which is defective to Muntons.

9.6 If Muntons complies with Condition 9.5 it shall have no further liability for a breach of any of the warranties in Condition 9.2 in respect of such Goods.

9.7 Muntons shall be under no liability for any of the warranties set out in Condition 9.2 if the total price for the Goods has not been paid by the due date.

## **10. LIMITATION OF LIABILITY**

10.1 Subject to Condition 4, Condition 5 and Condition 9, the following provisions set out the entire financial liability of Muntons (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

- (a) any breach of these Conditions;
- (b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, Conditions and other terms implied by statute or common law (save for the Conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these Conditions excludes or limits the liability of Muntons:

- (a) for death or personal injury caused by Muntons' negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for Muntons to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.

10.4 Subject to Condition 10.2 and Condition 10.3:

- (a) Muntons' total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- (b) Muntons shall not be liable to the Buyer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the supply of Goods under the Contract, their use or resale by the Buyer.

## **11. ASSIGNMENT**

11.1 Muntons may assign the Contract or any part of it to any person, firm or company.

11.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of Muntons.

## **12. FORCE MAJEURE**

12.1 Muntons shall not be liable to the Buyer or be deemed to be in breach of these Conditions by reason of any delay in performing, or any failure to perform, any of Muntons' obligations in relation to the Goods, if the delay or failure was due to any cause beyond Muntons' reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond Muntons' reasonable control:-

- (a) strikes, lock-outs or other industrial actions or trade disputes (whether involving the employees of Muntons or a third party);
- (b) power failure or breakdown in machinery;
- (c) difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- (d) import or export regulations or embargoes;
- (e) acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- (f) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- (g) act of God, explosion, flood, tempest, fire or accident

12.2 In the event that Muntons is prevented from carrying out its obligations under this Contract in accordance with Condition 12.1, Muntons reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) and Muntons shall give notice of suspension as soon as is reasonably possible to the Buyer stating the date and the extent of the suspension and its cause. Muntons shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause and shall so notify the Buyer. In the event that the cause continues for more than one month, either party may terminate this Contract by giving the other party 30 days' prior written notice.

## **13. TERMINATION**

13.1 Either party may terminate at any time (without limiting any other remedy) the Contract by giving written notice to the other if the other commits any material breach of these Conditions and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so.

## **14. EXPORT TERMS**

14.1 In this Condition 14, 'Incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerces as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail

- 14.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this Condition 14 shall (subject to any special terms agreed in writing between the Buyer and Muntons) apply notwithstanding any other provision of these Conditions.
- 14.3 The Buyer 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 duties thereon.
- 14.4 Unless otherwise agreed in writing between the Buyer and Muntons the Goods shall be delivered ex-works.
- 14.5 Muntons shall supply a Certificate of Analysis and the Buyer shall be responsible for any additional testing and inspection of the Goods at Muntons' premises before shipment. Muntons shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

**15. DISPUTES**

- 15.1 If any dispute arises in connection with the Contract, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.

**16. HEALTH AND SAFETY**

- 16.1 Muntons will make available material safety data sheets and such other information in respect of the Goods supplied on request.

**17. GENERAL**

- 17.1 Each right or remedy of Muntons under the Contract is without prejudice to any other right or remedy of Muntons whether under the Contract or not.
- 17.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 17.3 Failure or delay by Muntons in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 17.4 Any waiver by Muntons of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

17.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

17.6 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law, and the parties submit to the exclusive jurisdiction of the English courts.

## **18. COMMUNICATIONS**

18.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:

- (a) (in case of communications to Muntons) to its registered office or such changed address as shall be notified to the Buyer by Muntons; or
- (b) (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to Muntons by the Buyer.

18.2 Communications shall be deemed to have been received:

- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- (b) if delivered by hand, on the day of delivery; or
- (c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

18.3 Communications addressed to Muntons shall be marked for the attention of the Company Secretary.