

**TERMS AND CONDITIONS OF SALE ("these Terms and Conditions")**

**1. DEFINITIONS**

In this Contract:

1.1 the following terms shall have the following meanings unless the context otherwise requires:

<b>"Breach of Duty"</b>	has the meaning given to it in Clause 6.7.1;
<b>"Business Day"</b>	any day other than (i) a Saturday, (ii) a Sunday or (iii) a day when the clearing banks are not physically open for business in the City of London;
<b>"this Contract"</b>	these Terms and Conditions together with the relevant terms agreed between the Parties in relation to a particular Order as recorded in the Delivery Note, and incorporating the terms within the Customer Credit Account Form;
<b>"Customer"</b>	the customer of SeeWoo whose details may be more particularly set out in the Delivery Note;
<b>"Customer Credit Account Form"</b>	the written form agreed between the Customer and SeeWoo following the approval by SeeWoo of the Customer's request for credit terms;
<b>"Delivery Note"</b>	the written document or written communication which SeeWoo despatches to the Customer (upon delivery or collection of an Order), which contains details of the number and quantity and type of Products that SeeWoo is supplying to the Customer and the fee payable by the Customer;
<b>"Event of Force Majeure"</b>	has the meaning given to it in Clause 9.1;
<b>"Fee"</b>	the fee payable by the Customer to SeeWoo for the supply by SeeWoo of the Products being the fee agreed in writing between the Parties by the time of the Order or, if not agreed between the Parties, this shall be the fee listed in SeeWoo's price list current at the date of the Order (as may be recorded in the relevant Delivery Note);
<b>"Liability"</b>	has the meaning given to it in Clause 6.7.2;
<b>"Order"</b>	an individual request (in any form) by the Customer to SeeWoo for the provision of a particular delivery of Products, which may be in accordance with the terms of a Customer Credit Account Form;
<b>"Party"</b>	either SeeWoo or the Customer;
<b>"Payment"</b>	has the meaning given to it in Clause 4.1;
<b>"Products"</b>	any of SeeWoo's products provided or to be provided by SeeWoo to the Customer pursuant to this Contract (including any associated packaging), as more particularly described in the Delivery Note;
<b>"SeeWoo"</b>	SeeWoo Foods Limited, a company registered in England under number 01295299 whose registered office is at Faulkner House, Victoria Street, St Albans, Herts, AL1 3SE, England (facsimile number - +44 [0]845 076 8899);
<b>"VAT"</b>	any tax introduced pursuant to a direction of the Council of the European Community relating to turnover taxes including value added tax as provided for in the Value Added Tax Act 1994 and supplemental legislation (whether delegated or otherwise), any tax of a similar nature which any be substituted for or levied in addition to it and any sales tax; and
<b>"Warranty Period"</b>	has the meaning given to it in Clause 5.1.1;

1.2 references to **"Clauses"** are to clauses of these Terms and Conditions;

1.3 the headings to Clauses are inserted for convenience only and shall not affect the interpretation or construction of this Contract;

1.4 words imparting the singular shall include the plural and vice versa;

1.5 words imparting a gender shall include the other gender and the neutral and references to persons shall include an individual, company, corporation, firm or partnership;

1.6 references to **"includes"** or **"including"** or like words or expressions shall mean without limitation;

1.7 references to any statute or statutory provision shall include any subordinate legislation made under it, any provision which it has modified or re-enacted (whether with or without modification) and any provision which subsequently supersedes it or re-enacts it (whether with or without modification); and

1.8 references to **"written"** or in **"writing"** (except in respect of sending a notice in accordance with Clause 10) includes in electronic form.

**2. AGREEMENT**

2.1 The terms of this Contract apply to the exclusion of any terms and conditions submitted, proposed or stipulated by the Customer. These Terms and Conditions apply to SeeWoo's supply of all Products. The giving by the Customer of any Order for Products shall constitute unqualified acceptance by the Customer of these Terms and Conditions.

2.2 Save as expressly provided herein, this Contract (together with any documents referred to in it) shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between the Parties hereto preceding the date of this Contract and in any way relating to the subject matter of this Contract and to the exclusion of any representations not expressly stated herein save for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. Each Party acknowledges that it has not entered into this Contract based on any representation that is not expressly incorporated into this Contract.

2.3 This Contract (together with any documents referred to in it) constitutes the whole agreement and understanding of the Parties as to the subject matter hereof and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to herein.

2.4 Subject to Clause 2.2, all materials and other particulars furnished by SeeWoo or in SeeWoo's sales or marketing materials or other documents (including its catalogues, trade literature, brochures, quotations, price lists or website) or made orally by SeeWoo are given for general information purposes only and the Customer acknowledges that it is not entering into this Contract in reliance upon any such materials or other particular; the Products may also look different (and the colours may be of different shades) to their representation in any such materials or particulars.

2.5 Except as expressly provided otherwise in this Contract, no change to this Contract shall be binding unless expressly agreed between SeeWoo and the Customer.

2.6 In the event of any conflict between the provisions of these Terms and Conditions and the terms of any Customer Credit Account Form, then the terms of the Customer Credit Account Form prevails over these Terms and Conditions.

2.7 If the Customer provides SeeWoo with a written order, purchase order, confirmation of order, specification or other document for the Products, such document shall be purely for the Customer's administrative purposes only and shall not form part of this Contract.

2.8 Subject to Clause 5.3, this Contract shall be legally formed and the Parties shall be legally bound when the Customer places an Order.

2.9 Each Order constitutes a separate contract. There may be more than one contract between the Parties in force at the same time as this Contract.

2.10 No Contract shall be a sale by sample.

**3. DELIVERY AND RISK**

3.1 In consideration for the payment of the Fee by the Customer, SeeWoo shall supply the Products referred to in the Delivery Note to the Customer.

3.2 SeeWoo shall use its reasonable endeavours to perform its obligations within any timescales set out in this Contract (and SeeWoo usually aims to deliver within 7 days of receipt of an Order), but time for performance shall not be of the essence and SeeWoo shall not be liable for any delays or failure to accurately perform its obligations:

3.2.1 if it has used those endeavours; or

3.2.2 if caused by any failure or delay on the part of the Customer or the Customer's agents, staff, officers, employees and contractors or customers or by any breach by the Customer of this Contract or any other contract between the Parties.

3.3 Partial delivery or performance, and delivery by instalments, shall be permitted.

3.4 Delay, default or non-delivery of any instalment by SeeWoo shall not entitle the Customer to cancel or terminate, and shall not affect, the remainder of this Contract.

3.5 Unless otherwise expressly agreed in writing between the Parties, this Contract is for delivery of the Products:

- 3.5.1 to the Customer's address if SeeWoo agrees to deliver there; or
- 3.5.2 ex works (Incoterms 2000) at the place stipulated as such in the Delivery Note (or if no place stipulated, then SeeWoo's normal location for dispatch of the Products) if the Customer agrees to collect or arrange collection. If there is any conflict between the provisions of Incoterms 2000 and this Contract, this Contract shall prevail. Section 32 of the Sale of Goods Act 1979 shall not apply to this Contract. Notwithstanding the Products being delivered ex works, SeeWoo may in its absolute discretion pay for the cost of courier arranged by the Customer.
- 3.6 SeeWoo shall inform the Customer of the estimated date and timing on which the Products will be ready for delivery or collection.
- 3.7 The Customer shall ensure that it is ready for safe receipt (or, as the case may be, collection) of the Products without undue delay and at the times reasonably specified by SeeWoo.
- 3.8 Where delivery:
- 3.8.1 is not within the boundaries of the M25; and/or
- 3.8.2 is requested for an Order of an aggregate amount of less than £300;
- SeeWoo reserves the right to levy a charge for delivery at SeeWoo's standard rate applicable at the time of the Order.
- 3.9 It is the Customer's responsibility to ensure that on delivery or collection of the Products the Delivery Note is complete and accurate and to point out to SeeWoo anything which is incomplete or inaccurate within 48 hours of delivery or collection of the Products.
- 3.10 SeeWoo reserves the right to require the Customer to check the Products delivered or collected against the Products listed on the Delivery Note at the time of delivery or collection to ensure there are no discrepancies between the Products delivered or collected and the Products listed on the Delivery Note.
- 3.11 The Customer shall be required to sign the Delivery Note and may be required to sign other documentation upon delivery or collection of the Products. The signing of any such documentation by the Customer shall be evidence that the Products have been delivered or collected.
- 3.12 All risk in the Products shall pass to the Customer upon delivery or collection, provided that where delivery or collection is delayed due to breach by the Customer of its obligations under this Contract risk shall pass at the date when delivery or collection would have occurred but for that breach.
- 3.13 The Customer shall keep the Products fully insured on SeeWoo's behalf with a reputable insurance company to the reasonable satisfaction of SeeWoo for their full price against all risks of loss or damage from the time when the risk passes to the Customer until property passes in accordance with Clause 4. On request, the Customer shall produce the policy of insurance to SeeWoo. If the Products are lost, damaged or destroyed, the Customer shall hold the proceeds of insurance for and to the order of SeeWoo pending Payment (as defined in Clause 4.1).
- 3.14 If delivery or collection of the Products is delayed or obstructed through the Customer's default or breach of this Contract or if the Customer unreasonably declines or delays in accepting or taking delivery or receipt of the Products, then (subject to the rest of this Contract) SeeWoo shall not have any Liability to the Customer as a result and SeeWoo may (without prejudice to any other right or remedy available to it) do all or any of the following:
- 3.14.1 sell the Products for SeeWoo's account;
- 3.14.2 charge a reasonable storage fee for the Products;
- 3.14.3 require the Customer to indemnify SeeWoo for any and all losses, liabilities, claims, proceedings, judgments, damages, demands, actions, costs, charges, expenses, penalties and fines suffered or incurred by SeeWoo as a result of the Customer declining or delaying; and
- 3.14.4 terminate this Contract.
- 3.15 Where delivery is not to the United Kingdom, the Customer shall be responsible for complying with all applicable laws, regulations and codes of practice governing the importation and use of the Products into the country of destination and for payment of any duties or levies thereon.

#### 4. TITLE

- 4.1 Notwithstanding delivery or collection, title to and ownership of the Products shall not pass to the Customer until SeeWoo has received in full (in cash or cleared funds) all sums due to it in respect of:
- 4.1.1 the Products; and
- 4.1.2 all other sums which are or which become due to SeeWoo from the Customer on any account;
- ("Payment").
- 4.2 Until Payment, the Customer shall:

- 4.2.1 hold the Products on a fiduciary basis as SeeWoo's bailee;
- 4.2.2 store the Products (at no cost to SeeWoo) in good condition and in such a way that they remain readily identifiable as SeeWoo's property; and
- 4.2.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Products.
- 4.3 The Customer may resell the Products before Payment solely on the condition that the Customer shall still be responsible for paying to the full value of the Payment.
- 4.4 SeeWoo may at any time until title passes under this Clause 4 without notice recover possession of the Products which are the property of SeeWoo. The Customer hereby grants to SeeWoo for SeeWoo and its agents, staff, officers, employees and contractors an irrevocable licence to enter for that purpose any premises then occupied by or in the ownership or possession of the Customer. The Customer shall indemnify SeeWoo against all claims, losses, damages, liabilities, costs and expenses so arising.
- 4.5 SeeWoo shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from SeeWoo.
- 4.6 On termination of this Contract, howsoever arising, SeeWoo's rights contained in this Clause 4 shall remain in effect.

#### 5. WARRANTY

- 5.1 Subject to the rest of this Contract, SeeWoo warrants that:
- 5.1.1 as at delivery the Products shall be free from material defects in packaging (excluding wear and tear) and the food and drink supplied shall be safe for most people (who do not have intolerances or allergies) to consume within three days of delivery or, if longer, before the "best before" or "use by" date stipulated on the relevant Products (or its packaging or labelling) (the "**Warranty Period**") if the Products have been stored or dealt with at all times in accordance with good trade practice or in accordance with any oral or written instructions, advice or recommendations provided by SeeWoo; and
- 5.1.2 it shall deliver the Products to the Customer undamaged and (subject to Clause 5.3) in the quantities specified in the Delivery Note.
- 5.2 SeeWoo is not responsible for any services or products not expressly stipulated in this Contract that SeeWoo will provide. Except for any matter upon which SeeWoo specifically agrees in writing with the Customer to advise or do, SeeWoo shall not have any Liability for advising on, or failing to advise on, or doing, or failing to do, anything else (including on any laws, rules, regulations, bye-laws or codes of practice). It is the Customer's responsibility to ensure that the Products meet its requirements and purposes.
- 5.3 In the event that SeeWoo is unable to supply any of the Products included in an Order for whatever reason, SeeWoo shall include details on the Delivery Note that such Product or Products are unavailable. For the avoidance of doubt, SeeWoo shall not be under any obligation to supply Products which are unavailable at any time (whether at the time of the Order, delivery or collection of the Order or at any time in the future or otherwise) nor shall it be under an obligation to provide a substitute Product.
- 5.4 SeeWoo shall at its option replace or provide a refund for Products that are lost or damaged in transit to the place of delivery. SeeWoo shall not have any Liability for loss of or obvious damage to Products in transit or on delivery under Clause 5.1.2 unless the Customer informs SeeWoo within 48 hours, and in any event notifies SeeWoo in writing within five Business Days:
- 5.4.1 after the expected date of delivery or receipt that it has not received the Products; or
- 5.4.2 after receipt that the Products are damaged; and also unless the Customer provides SeeWoo with SeeWoo's Delivery Note details and such other information and documentation as SeeWoo reasonably requires at the same time as the notice.
- 5.5 Subject to Clause 5.7, SeeWoo shall at its option:
- 5.5.1 replace; or
- 5.5.2 provide a credit note in respect of a reasonable part of; or
- 5.5.3 repay an appropriate portion of the purchase price of; the delivered Products which are not in conformance with the warranty set out in Clause 5.1.
- 5.6 SeeWoo shall not have any Liability for providing Products to the extent caused by SeeWoo's compliance with and reliance on the Customer's instructions or requirements.
- 5.7 SeeWoo's Liability for defective or damaged Products is subject to:
- 5.7.1 the Customer notifying SeeWoo of any claim promptly upon discovery of the defect or damage and in any event before the end of the Warranty Period, specifying with reasonable detail the way in which it is alleged that the Products do not conform to this Contract;

- 5.7.2 the Customer having provided SeeWoo with SeeWoo's Delivery Note details and such other information and documentation as SeeWoo reasonably requires at the same time as the notice in Clause 5.7.1;
- 5.7.3 the Customer showing to SeeWoo's reasonable satisfaction that the defect or damage is solely attributable to SeeWoo's (or SeeWoo's suppliers') fault and not wear or tear from normal use, failure to store the Products correctly or the combination, incompatibility, attachment, affixation, incorporation or mixing of the Products with any other goods, products, materials or substances;
- 5.7.4 the Products having not been misused or subjected to neglect, improper or inadequate care, carelessness, abnormal conditions, or involved in any accident, or dealt with or stored contrary to good trade practice or any oral or written instructions, advice or recommendation of SeeWoo;
- 5.7.5 the Customer allowing SeeWoo the opportunity to inspect and remove the Products;
- 5.7.6 the Customer having paid for the Products in full; and
- 5.7.7 upon SeeWoo's request (and unless SeeWoo agrees to collect or inspect on site), the Customer returning the defective or damaged Products carriage and insurance paid at the Customer's risk to SeeWoo's premises or such other location stipulated by SeeWoo and carefully packed to avoid damage in transit (and Section 36 of the Sale of Goods Act 1979 shall not apply). Unless and until SeeWoo receives the Products, the Customer shall hold the Products safely and securely in good condition.
- 5.8 The warranty contained in this Clause 5 is specifically limited to the Customer. No warranty is made to any other person, whether subsequent buyer or user or customer, or to any bailee, licensee, assignee, employee, agent or otherwise.
- 5.9 If the Customer makes an invalid claim under the warranty, SeeWoo may charge the Customer for its fees and costs of examining, storing, repairing and replacing the Products and dealing with the claim and removing and delivering the Products.
- 5.10 Except where expressly provided for within this Contract, SeeWoo excludes all conditions, warranties, terms and obligations, whether express or implied by statute, common law or otherwise, to the fullest extent permitted by law in respect of the Products.
- 5.11 The Customer shall not be permitted to return a Product or Products except in accordance with this Clause 5.

## 6. LIABILITY

- 6.1 This Clause 6 prevails over all other Clauses and sets forth the entire Liability of SeeWoo, and the sole and exclusive remedies of the Customer, in respect of:
- 6.1.1 performance, non-performance, purported performance, delay in performance or mis-performance of this Contract or of any goods or services in connection with this Contract; or
- 6.1.2 otherwise in relation to this Contract or entering into this Contract.
- 6.2 SeeWoo does not exclude or limit its Liability for:
- 6.2.1 its fraud; or
- 6.2.2 death or personal injury caused by its Breach of Duty; or
- 6.2.3 any breach of the obligations implied by Section 12 Sale of Goods Act 1979 or Section 2 Supply of Goods and Services Act 1982; or
- 6.2.4 supply of a defective Product in accordance with Part I of the Consumer Protection Act 1987; or
- 6.2.5 any other Liability which cannot be excluded or limited by applicable law.
- 6.3 Subject to Clause 6.2, SeeWoo does not accept and hereby excludes any Liability for Breach of Duty other than any Liability arising pursuant to the terms of this Contract.
- 6.4 Subject to Clause 6.2, SeeWoo shall not have any Liability in respect of any:
- 6.4.1 indirect or consequential losses, damages, costs or expenses;
- 6.4.2 loss of actual or anticipated profits;
- 6.4.3 loss of contracts;
- 6.4.4 loss of use of money;
- 6.4.5 loss of anticipated savings;
- 6.4.6 loss of revenue;
- 6.4.7 loss of goodwill;
- 6.4.8 loss of reputation;
- 6.4.9 loss of business;
- 6.4.10 loss of operation time;
- 6.4.11 loss of opportunity; or
- 6.4.12 loss of, damage to or corruption of, data;

whether or not such losses were reasonably foreseeable or SeeWoo or its agents or contractors had been advised of the possibility of the Customer incurring such losses. For the avoidance of doubt, Clauses 6.4.2 to 6.4.12 apply whether such losses are direct, indirect, consequential or otherwise.

- 6.5 Subject to Clause 6.2 and the exclusions and limits set out in the rest of this Contract, the total aggregate Liability of SeeWoo shall be limited to the greater of: (a) £1,000; or (b) 110% of the total sums paid and 110% of the total other sums payable (in aggregate) by the Customer to SeeWoo under this Contract.
- 6.6 The limitation of Liability under Clause 6.5 has effect in relation both to any Liability expressly provided for under this Contract and to any Liability arising by reason of the invalidity or unenforceability of any term of this Contract.
- 6.7 In this Clause 6:
- 6.7.1 "**Breach of Duty**" means the breach of any (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty); and
- 6.7.2 "**Liability**" means liability in or for breach of contract, Breach of Duty, misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with this Contract, including liability expressly provided for under this Contract or arising by reason of the invalidity or unenforceability of any term of this Contract (and for the purposes of this definition, all references to "**this Contract**" shall be deemed to include any collateral contract).

## 7. FEES

- 7.1 In consideration for obtaining the Products provided by SeeWoo pursuant to this Contract, the Customer shall pay to SeeWoo the Fee and other sums due under this Contract.
- 7.2 Unless otherwise agreed (in accordance with a Customer Credit Account Form or otherwise), the Customer shall pay to SeeWoo the Fee and other sums due under this Contract in advance of or on delivery or collection of the Products, and delivery or collection of the Products shall be conditional on SeeWoo first receiving the Fee and any other sums due under this Contract in cleared funds in full from the Customer.
- 7.3 All Fees and sums due under this Contract are exclusive of any VAT or other duties or taxes (if applicable) which shall be payable in addition at the same time as payment of the Fees and other sums due.
- 7.4 The Customer shall pay SeeWoo by any payment method reasonably stipulated by SeeWoo.
- 7.5 Unless otherwise stipulated by SeeWoo in the Delivery Note or agreed in writing between the Parties, payment shall be in pounds sterling or such other currency as is in force in England from time to time.
- 7.6 Time for payment shall be of the essence.
- 7.7 Payment shall be deemed made when SeeWoo has received cleared funds in full.
- 7.8 Payment of all sums due to SeeWoo under this Contract shall be made by the Customer in full without any set-off, deduction or withholding whatsoever.
- 7.9 If the Customer is late in paying any part of any monies due to SeeWoo under this Contract or any other contract between the Parties, SeeWoo may (without prejudice to any other right or remedy available to it whether under this Contract or by any statute, regulation or bye-law) do any or all of the following:
- 7.9.1 charge interest on the amount due but unpaid at the annual rate of interest set under Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 from time to time from the due date until payment (after as well as before judgment), such interest to run from day to day and to be compounded monthly; and
- 7.9.2 sell or otherwise dispose of any Products which are the subject of any Delivery Note, whether or not appropriated thereto, and apply the proceeds of sale to the overdue payment; and
- 7.9.3 suspend the performance of this Contract and any other contract between SeeWoo and the Customer until payment in full has been made.

## 8. TERM AND TERMINATION

- 8.1 This Contract shall commence when the Customer places an Order and, unless terminated earlier by either Party exercising any right of termination as set out in this Contract, shall continue in force until the later of:
- 8.1.1 the Customer having paid for the Fees in full; and

- 8.1.2 SeeWoo having despatched all the Products.
- 8.2 Either Party may terminate this Contract immediately by notice in writing to the other Party if:
- 8.2.1 the other Party is in persistent breach of any of its obligations under this Contract or any other contract between the Parties; or
- 8.2.2 the other Party is in material breach of any of its obligations under this Contract or any other contract between the Parties which is incapable of remedy; or
- 8.2.3 the other Party fails to remedy, where capable of remedy, any material breach of any of its obligations under this Contract or any other contract between the Parties after having been required in writing to remedy such breach within a period of no less than 30 days; or
- 8.2.4 the other gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator which entitle the court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt.
- 8.3 In any event, SeeWoo may terminate this Contract if the Customer does not pay the Fee in accordance with Clause 7.2.
- 8.4 Termination of this Contract shall be without prejudice to any accrued rights or remedies of either Party.
- 8.5 Termination of this Contract will not affect the coming into force or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.
- 8.6 Upon termination of this Contract for any reason:
- 8.6.1 SeeWoo shall cease to perform this Contract; and
- 8.6.2 all outstanding Fees and any other sums shall become immediately payable, whether invoiced or not.

## 9. FORCE MAJEURE

- 9.1 Save for obligations in respect of payment of the Fees, neither Party shall have any Liability for any breach, hindrance or delay in the performance of this Contract attributable to any cause beyond its reasonable control including without limitation any event beyond the reasonable control of either party including without limitation Acts of God, actions or demands or requirements of third parties (including without limitation hackers, suppliers, governments or supra-national authorities), insurrection, riot, civil commotion, war, hostilities, warlike operations, enemy action, national emergencies, act of terrorism, piracy, arrests, restraints or detentions of any competent authority, strikes or combinations or lock-out of workmen, epidemic, fire, explosion, storm, flood, drought, earthquake, natural disaster, natural catastrophe, accident, mechanical breakdown, third party software, failure or problems with public utility supplies (including without limitation electrical, telecoms or general Internet failure), unavailability or shortage of or inability to obtain Products, materials, equipment or transportation ("**Event of Force Majeure**"), regardless of whether the circumstances in question could have been foreseen.
- 9.2 The performance of each Party's obligations shall be suspended during the period that the circumstances persist and such Party shall be granted an extension of time for performance equal to the period of the delay.
- 9.3 Each Party shall bear its own costs incurred by the Event of Force Majeure.
- 9.4 Should any performance of obligations be delayed under this Clause 9, each Party shall nevertheless accept performance as and when the other shall be able to perform.
- 9.5 If the Event of Force Majeure continues without a break for more than two weeks, either Party may terminate this Contract immediately by notice to the other, in which event neither Party shall have any Liability to the other by reason of such termination.
- 9.6 If SeeWoo has contracted to provide identical or similar products to more than one customer and is prevented from fully meeting its obligations to the Customer by reason of an Event of Force Majeure, SeeWoo may decide at its absolute discretion which contracts it will perform and to what extent.

## 10. NOTICES

- 10.1 Any notice or other communication required or authorised to be given under this Contract may be made verbally but in any event,

save for the placing of an Order, shall be made in writing (and if made verbally, repeated in writing) and may be served by personal delivery or by recorded delivery letter (if to an address in the same country) or by overnight courier or by facsimile addressed to the relevant Party at its address stated in this Contract or at such other address or facsimile number as is notified by the relevant Party to the other for this purpose from time to time or at the address or facsimile number of the relevant Party last known to the other.

- 10.2 Any notice so given by post shall be deemed to have been served two Business Days after the same shall have been despatched to the overnight courier or Post Office and any notice so given by facsimile shall be deemed to have been served upon receipt of an answerback signal from the receiving machine, and in proving such service it shall be sufficient to prove that the letter or facsimile was properly addressed or numbered and, as the case may be, despatched or an answerback signal received.

## 11. ASSIGNMENT

- 11.1 Subject to any assignee (in the case of an assignment) confirming in writing to be bound by the provisions of this Contract, SeeWoo may assign, transfer, novate or subcontract its rights, liabilities or obligations under this Contract either in whole or in part to any other person, firm or company. SeeWoo shall promptly give notice to the Customer of any such assignment, transfer or novation.
- 11.2 The Customer shall not assign, transfer, novate, charge or subcontract or purport to assign, transfer, novate, charge or subcontract this Contract or any of its rights, liabilities or obligations under this Contract without the prior written consent of SeeWoo.

## 12. GENERAL

- 12.1 No failure or delay by either Party in exercising any right under this Contract shall operate as a waiver of such right or extend to or affect any other or subsequent event or impair any rights or remedies in respect of it or in any way modify or diminish that Party's rights under this Contract.
- 12.2 If any Clause or other provision in this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall in no way affect any other Clause or provision or part of any Clause or provision, all of which shall remain in full force and effect.
- 12.3 Nothing in this Contract shall create or be deemed to create a partnership, an agency or a relationship of employer and employee between the Parties.
- 12.4 A person who is not a Party to this Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 in respect of any term of this Contract.
- 12.5 This Contract shall be governed by and construed in accordance with English law. The Customer hereby submits to the jurisdiction of the English courts. The parties irrevocably agree that the English courts shall have exclusive jurisdiction over any claim or matter brought by the Customer in relation to this Contract. Nothing in this Clause 12.5 shall limit the right of SeeWoo to take proceedings against the Customer in any other court of competent jurisdiction. All dealings, correspondence and contacts between the parties shall be made or conducted in the English language.

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