

## 1 INTERPRETATION

The following definitions and rules of interpretation apply in this Contract.

### 1.1 Definitions:

**Affiliate:** in relation to the Vaillant Group, any company which is a Subsidiary or Holding Company of the Vaillant Group.

**Background IPR:** any Intellectual Property Rights owned by or licenced to the Supplier which are in existence prior to the date of the Contract and which have not been created as part of the Services or in relation to the provision of any Goods.

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

**Commencement Date:** has the meaning given in Clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with Clause 18.9.

**Confidential Information:** information of commercial value, in whatever form or medium, disclosed by the party (or any of its Affiliates) to the other party (or any of its Affiliates), including commercial or technical know-how, technology, financial forecasts, information pertaining to business operations and strategies, and information pertaining to customers, clients to suppliers, pricing and marketing.

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

**Control:** has the meaning set out in section 1124 of the Corporation Tax Act 2010, and the expression Change of Control shall be construed accordingly.

**Customer:** either Vaillant Group UK Limited registered in England and Wales with company number 00294316, or Vaillant Industrial UK Limited registered in England and Wales with company number 01064184, or Vaillant Limited registered in England and Wales with company number 01279010 or any other such Affiliate as identified in the Order.

**Customer Materials:** has the meaning set out in Clause 5.3(j).

**Data Protection Laws:** means all applicable data protection and privacy legislation in force from time to time including:

- (a) in the United Kingdom:
    - i. the UK GDPR (as defined below) and the Data Protection Act 2018, and/or any supplementary or replacement laws and regulation; and/or
    - ii. the Privacy and Electronic Communications (**EC Directive**) Regulations 2003, and any laws or regulations implementing Directive 2002/58/EC (**e-Privacy Directive**);
  - (b) in member states of the European Union (**EU**): the General Data Protection Regulation (EU) 2016/679 (**GDPR**) and the e-Privacy Directive, and all relevant EU and EEA member state laws or regulations giving effect to or corresponding with any of them;
  - (c) any other laws relating to the processing, privacy and use of personal data in any other territory as applicable to any party; and
- any judicial or administrative interpretation of any of the above, any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant supervisory authority.

**Data Subject:** shall have the meaning set out in UK GDPR.

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services or in connection with the Goods (including, but not limited to, any technical documentation).

**DP Regulator:** any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws.

**Due Date:** for the supply of services: ninety (90) days of the date of a correctly rendered invoice. For the supply of goods: the tenth (10<sup>th</sup>) day of the fourth (4<sup>th</sup>) month following delivery.

**Force Majeure Event:** any cause preventing or hindering a party from performing any or all of its obligations under the Contract which arises from or is attributable to acts, events, omissions or accidents beyond its reasonable control including without limitation act of God, war, riot, civil commotion, terrorist act, malicious damage, accident, breakdown of machinery or plant, fire, flood, storm or drought but does not include:

- (a) strikes of the Supplier's employees and any strikes of the Supplier's sub-contractors (unless part of a nationwide industrial dispute not caused by the Supplier);
- (b) sub-contractor default;
- (c) poor maintenance or failure to maintain equipment, premises or facilities;
- (d) the consequence of that party's default or negligence; or

- (e) the consequences of the UK ceasing to be a member state of the EU, regardless of which countries comprise the UK at such date.

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

**Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

**Holding Company:** has the meaning set out in Section 1159 of the Companies Act 2006.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, Confidential Information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form (including forms transmitted electronically via the e-ordering platform operated by Vaillant Group), or in the Customer's written acceptance of the Supplier's quotation, or call-off's (Scheduling Agreement Releases), or overleaf, as the case may be.

**Personal Data:** shall have the meaning set out in UK GDPR.

**Processing and Process:** shall have the meaning set out in UK GDPR.

**Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

**Service Specification:** the description or specification for Services agreed in writing by the Customer and the Supplier.

**Subsidiary:** has the meaning set out in Section 1159 of the Companies Act 2006.

**Supplier:** the person or firm from whom the Customer purchases the Goods and/or Services.

**Tooling:** any tools, patterns, dies, moulds or other manufacturing equipment manufactured for or procured on behalf of the Customer by or on behalf of the Supplier (whether for the purpose of manufacturing Goods or otherwise).

**UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

**Vaillant Group:** means the Customer and any of its Affiliates, including but not limited to, Vaillant GmbH, a company incorporated and registered in the Federal Republic of Germany.

**Vaillant Group's Supplier Logistics Handbook:** the document detailing the Vaillant Group's requirements for logistics (including the delivery of Goods) (as may be amended from time to time), available on request and available to download in the purchasing/purchasing terms section of the Vaillant Group website at [www.vaillant-group.com](http://www.vaillant-group.com).

**Vaillant Group's Supplier Quality Guidelines:** the guidelines of the Vaillant Group in relation to supplier quality management (as may be amended from time to time), which is available on request and/or available to download in the purchasing/purchase terms section of the Vaillant Group website at [www.vaillant-group.com](http://www.vaillant-group.com).

1.2 In this Contract, unless context requires otherwise:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (d) The terms "including" and "include", in particular, "for example" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) References to the Contract or any other documents are to this Contract or that document as amended from time to time.
- (f) The headings in the Contract are for ease of reference only and they do not affect its construction or interpretation.
- (g) A reference to writing or written includes email, save in respect of notices served under Clause 14.
- (h) References to "Clauses" means to clauses of these Conditions.

## 2 BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earliest of:
- the Supplier issuing written acceptance of the Order;
  - any act by the Supplier consistent with fulfilling the Order; or
  - the date falling ten (10) Business Days from the date of receipt by the Supplier of the Order unless the Supplier has, prior to that date, notified the Customer in writing that the Order is rejected,
- at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 2.5 To the extent that the Order contains reference to target or estimated quantities of Goods to be ordered by the Supplier such quantities shall be estimates only and shall not be legally binding.
- 2.6 In the event of a conflict amongst the documents constituting the Contract, the order of priority shall be:
- a side letter to the Contract;
  - the Contract; and
  - the Customer's purchase order form containing the Order.
- ### 3 MANUFACTURE AND SUPPLY OF GOODS
- 3.1 The Supplier shall ensure that the Goods shall:
- correspond with their description and any applicable Goods Specification;
  - be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
  - where they are manufactured products, be free from defects in design, materials and workmanship and remain so for twenty-four (24) months after delivery;
  - comply with all applicable statutory and regulatory requirements as may apply from time to time relating to the manufacture, labelling, packaging, storage, handling and delivery (including their export and import) of the Goods including, without limitation, Directive 2011/65/EU (**RoHS**) and article 59(i) and article 33 of regulation (EC) No.1907/2006 (**REACH**); and
  - be manufactured and delivered in accordance with an established quality management system at least equivalent to the requirements of ISO 9001 and in accordance with the Vaillant Group's Supplier Quality Guidelines.
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods and/or Services.
- 3.3 The Customer (and/or the Customer's nominee) may, at any time prior to delivery, inspect and test the Goods and/or otherwise verify the Supplier's compliance with Clause 3.1. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.4 If following such inspection or testing the Customer considers that the Goods or the Supplier's procedures do not comply or are unlikely to comply with the Supplier's undertakings at Clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions at the Supplier's cost, to ensure conformity with Clause 3.1.
- 3.6 The Supplier shall comply with all applicable laws as may apply from time to time concerning the treatment of employees, environmental protection and health and safety at work and shall have in place and actively pursue a policy designed to reduce the adverse effect of its activities on human beings and the environment. Without prejudice to the above the Supplier shall set up and develop a management system in accordance with ISO 14001 and OHSAS 18001 and shall comply with the principles in the UN Global Compact Initiative in relation to the protection of international human rights, the right to collective bargaining, the abolition of forced labour and child labour, the elimination of discrimination and responsibility for the environment and the prevention of corruption in relation to which more information is available at [www.unglobalcompact.org](http://www.unglobalcompact.org).
- ### 4 DELIVERY OF GOODS
- 4.1 The Supplier shall ensure that:
- the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition; and
  - all Goods are delivered in accordance with all relevant legal requirements, including but not limited to legal requirements regarding packaging, labelling the Goods, shipping of the documents, and, where specified, any requirements set out in the Vaillant Group's Supplier Logistics Handbook.
- 4.2 The Supplier shall deliver the Goods:
- on the date specified in the Order or, if no such date is specified, then within ten (10) Business Days of the date of the Order;
  - to the Customer's premises at Nottingham Road, Belper, DE56 1JT or such other location as is set out in the Order or as instructed by the Customer before delivery (**Delivery Location**); and
  - during the Customer's normal hours of business on a Business Day, or as instructed by the Customer.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 If the Supplier:
- delivers less than ninety-five per cent (95%) of the quantity of Goods ordered, the Customer may reject the Goods; or
  - delivers more than one hundred and five per cent (105%) of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods,
- and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.
- 4.5 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in Clause 7.1.
- 4.6 Title and risk in the Goods shall pass to the Customer on completion of delivery save that title to the Tooling shall pass to the Customer on completion of their manufacture and the Supplier shall hold all Tooling on trust for the Customer and shall have a licence to use the Tooling for the purposes of producing the Goods for the Customer only, and shall deliver up to the Customer (at the Supplier's cost) all or any Tooling at the request of the Customer and, in the event the Supplier fails to comply with such request, the Customer shall have the right to enter into any premises of the Supplier or any third party at which the Tooling are kept to seize and remove the Tooling.
- ### 5 SUPPLY OF SERVICES
- 5.1 The Supplier shall from the date set out in the Order and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.
- 5.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 5.3 In providing the Services, the Supplier shall:
- co-operate with the Customer in all matters relating to the Services, provide all information requested by the Customer in full and in good time and comply with all instructions of the Customer;
  - perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract and ensure that all such personnel have the right to work in the jurisdiction(s) in which they are engaged;
  - ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
  - provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
  - obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
  - comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services from time to time;
  - observe all health and safety rules and regulations and any other security requirements that may apply from time to time at any of the Customer's premises or of any third party if delivery to there is made;

- (j) hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of, or use, the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
  - (k) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;
  - (l) comply with any additional obligations as set out in the Service Specification;
  - (m) to the extent that it has been agreed between the parties that specific employees shall be engaged in the delivery of the Services such employees shall not be removed from providing the Services without the prior consent of the Customer (such consent not to be unreasonably withheld or delayed); and
  - (n) at the request of the Customer the Supplier shall remove any employee or employees from the provision of the Services and replace them with similarly skilled and experienced employees provided always that such request from the Customer is reasonable.
- 5.4 To the extent that the Services requires the Supplier to store any information of the Customer on its IT systems or use such IT systems to create any Deliverable and/or Goods the Supplier shall take all appropriate measures to protect such information (both in storage and in transit) against any loss, corruption, infection or unauthorised access and shall report to the Customer any such loss, corruption, infection or unauthorised access as soon as the Supplier becomes aware of the same. To the extent that the Supplier performs the Services which involves it accessing the IT systems of the Customer it shall comply with the provisions of the "IT and Information Security at Vaillant Group – Information for Externals" policy (as may be amended from time to time).
- 6 SPARE PARTS**
- 6.1 The Supplier shall use all reasonable endeavours to supply the Customer or any member of the Vaillant Group, in sufficient quantity, with Goods for use as spare parts, as well as with spare parts for the Goods delivered by the Supplier. This obligation shall, regardless of the termination or otherwise of the Contract between the parties, continue for a period of fifteen (15) years after the term of the Contract has ended or for a shorter period agreed by the Customer in writing (**Extended Supply Period**), unless it can be proven by the Supplier that it would be unreasonable to expect the Supplier to continue to supply spare parts for this period of time.
- 6.2 No less than six (6) months before the expiry of the Extended Supply Period, the Customer shall be entitled to place a final order for its all-time demand of Goods to use as spare parts.
- 6.3 Upon becoming aware that the continued supply of spare parts during the Extended Supply Period is no longer possible, the Supplier shall immediately give notice in writing of the terms of such discontinuation of its supply capability.
- 6.4 Upon expiry of the Extended Supply Period, the Supplier shall, at the Customer's request, provide to the Customer all technical information and documents necessary for the manufacture of the spare parts and grant to Vaillant Group an irrevocable, royalty free, non-exclusive licence (with the right sub-licence) to use such information and documents to manufacture spare parts.
- 6.5 The prices of the spare parts supplied for the Goods delivered by the Supplier and referred to in this Clause 6 shall be the price specified in the Order for the Goods, unless indicated otherwise in the Order. These prices shall continue for three (3) years following the termination of an Order, following which the prices shall be agreed annually throughout the term of the Extended Supply Period.
- 6.6 This Clause 6 shall survive termination of the Contract.
- 7 CUSTOMER REMEDIES**
- 7.1 If the Supplier fails to deliver the Goods and/or perform the Services by the date set out in the Order, the Customer shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
  - (c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party to include the difference in price between the price charged by the Supplier and the price paid to the third party;
  - (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
  - (e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates of delivery.
- 7.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in Clause 3.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights, whether or not it has accepted the Goods:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
  - (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
  - (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - (e) to recover from the Supplier such additional costs incurred by the Customer in obtaining substitute goods from a third party; and
  - (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with Clause 3.1.
- 7.3 These Conditions shall extend to any substituted or remedial services and/or repaired, spare or replacement goods supplied by the Supplier.
- 7.4 The Customer's rights under the Contract are in addition to its rights and remedies implied by statute and common law.
- 8 CUSTOMER'S OBLIGATIONS**
- 8.1 The Customer shall:
- (a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services and/or delivering the Goods; and
  - (b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.
- 9 CHARGES AND PAYMENT**
- 9.1 The price for the Goods:
- (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
  - (b) shall be inclusive of all costs, including but not limited to the cost of packaging, labelling, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.
- 9.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 9.3 In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- 9.4 In consideration of the supply of Goods and/or Services by the Supplier, and unless otherwise agreed between the parties, the Customer shall pay the invoiced amounts on or before the Due Date to a bank account specified in writing by the Supplier. The Customer shall have no liability if the bank account details supplied by the Supplier are incorrect.
- 9.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 9.6 If the Customer fails to make a payment due to the Supplier under the Contract by the Due Date then the Customer shall pay interest on the overdue sum from the Due Date until payment of the overdue sum, whether before or after judgement. Interest under this Clause 9.6 will accrue each day at two per cent (2%) a year above the Bank of England's base rate from time to time, but at two per cent (2%) a year for any period when that base rate is below zero per cent (0%).
- 9.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such written records at all reasonable times on reasonable request.
- 9.8 In so far as charges for the Services are based on a daily rate it is agreed that one working day comprises no less than eight (8) hours and, if the Supplier spends fewer than eight (8) hours in any day providing the Services, the charges for such Services shall be reduced on a pro-rata basis.
- 9.9 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the

- Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at the exchange rate set out in the Financial Times publication in the preceding day for the purpose of any set-off. Any exercise by the Customer of its rights under this Clause 9 shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 9.10 To the extent that any Services provided by the Supplier require the Supplier to appoint a third party to provide services (**Third Party Services**) and the costs of such Third Party Services are to be met by the Customer the Supplier shall ensure that the Third Party Services are procured in such a manner that they are as cost effective as possible and the Supplier shall not apply any surcharge, handling fee or other mark-up to the costs of such Third Party Services which shall be passed on to the Customer on an "open book" basis.
- 9.11 The Supplier shall ensure that any third party which supplies any Third Party Services in order to meet the Suppliers obligations under the Contract, shall receive a copy of these Conditions and act in accordance with them.
- 10 INTELLECTUAL PROPERTY RIGHTS**
- 10.1 Subject to Clause 10.4, all Intellectual Property Rights in or arising out of or in connection with the Services (including, but not limited to, the Deliverables) shall be the property of the Customer from their creation.
- 10.2 To the extent that the use of any Deliverable is dependent upon the use of any Background IPR, the Supplier grants to the Customer and each member of the Vaillant Group, or shall procure the direct grant to the Customer and each member of the Vaillant Group, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual, sub-licensable and irrevocable licence to use, copy and modify such Background IPR for the purpose of receiving and using the Services and the Deliverables and (where appropriate) receiving, using and supplying to any third party the Goods.
- 10.3 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any Customer Materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services.
- 10.4 All Intellectual Property Rights in the Tooling shall belong to the Customer from their creation and the Supplier shall not seek to assert, register or otherwise claim any Intellectual Property Rights in any Tooling.
- 11 INDEMNITY AND REGULATORY**
- 11.1 The Supplier shall indemnify and keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:
- (a) any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);
  - (b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
  - (c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.
- 11.2 The Supplier warrants that it has not been convicted of any offence involving either the evasion of tax or "tax evasion facilitation" (within the meaning of Part 3 of the Criminal Finances Act 2017) and if the Supplier is so convicted or proceedings are commenced against the Supplier for such an offence, it shall notify the Customer in writing as soon as is practicable.
- 11.3 The Supplier undertakes that, when acting in its capacity as an "associated person" of the Customer (within the meaning of section 44 of the Criminal Finances Act 2017), it shall not commit any such offence as is referred to in Clause 11.2 above.
- 11.4 The Supplier shall at all times maintain any such policies and procedures as are reasonable and proportionate with the aim of preventing any person who is acting in the capacity of an 'associated person' of the Supplier (within the meaning of section 44 of the Criminal Finances Act 2017) from facilitating the evasion of tax.
- 11.5 The Supplier shall promptly report to the Customer in writing any request or demand for any assistance or information in relation to the Customer or the goods or services supplied pursuant to the Contract that it reasonably suspects may be used in the commission of a UK or a foreign tax evasion (or tax evasion facilitation) offence (in each case within the meaning of Part 3 of the Criminal Finances Act 2017).
- 11.6 This Clause 11 shall survive termination of the Contract.
- 12 INSURANCE**
- During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, liability insurance (business and/or product, as applicable) and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance. Without limitation to the foregoing, the Supplier shall ensure that any public, business and/or product liability insurance effected under this Clause 12 has an insured limit of at least ten million pounds (£10 million) per claim.
- 13 CONFIDENTIALITY**
- 13.1 Each party undertakes that it shall not at any time during the Contract and for a period of five (5) years after termination of the Contract, disclose to any person any Confidential Information except as permitted by Clause 13.2.
- 13.2 Each party may disclose the other party's Confidential Information:
- (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's Confidential Information must comply with this Clause 13; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under the Contract.
- 14 TERMINATION**
- 14.1 Without affecting any other right or remedy available to it, the Customer may terminate the Contract:
- (a) with immediate effect by giving written notice to the Supplier if:
    - (i) there is a Change of Control of the Supplier; or
    - (ii) the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Supplier's capability to fulfil its obligations under the Contract has been placed in jeopardy; or
    - (iii) the Supplier commits a breach of Clause 5.3(h);
  - (b) for convenience by giving the Supplier no less than one (1) month's written notice.
- 14.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of fourteen (14) days after being notified in writing to do so;
  - (b) the other party takes any step or action in connection with it entering into administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
  - (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
- 14.3 Without prejudice to the provisions of Clauses 14.1 or 14.2 the Customer may cancel any Order (or any part of any Order) on giving notice to the Supplier in which case the only liability of the Customer to the Supplier shall be payment for the Services provided up to the date of termination and/or direct costs incurred by the Supplier in providing Services and/or Goods up to the date of such termination provided that all costs are accounted for in writing to the reasonable satisfaction of the Customer.
- 15 CONSEQUENCES OF TERMINATION**
- 15.1 On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so then, after giving prior written notice, the Customer may enter the Supplier's premises and take possession of them. Until the Customer Materials have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 15.2 Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 15.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 16 DATA PROTECTION**
- 16.1 The Supplier shall comply with the provisions and obligations imposed on it by the Data Protection Laws at all times when processing Personal Data in connection with the Contract.
- 16.2 The Supplier shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Laws, and shall make such information available to

- the Customer and/or any DP Regulator on request.
- 16.3 To the extent the Supplier receives from, or processes any Personal Data on behalf of, the Customer or any member of the Vaillant Group, the Supplier shall:
- (a) process such Personal Data (a) only in accordance with the Customer's written instructions from time to time (including those set out in the Contract), unless it is otherwise required by applicable law (in which case, unless such law prohibits such notification on important grounds of public interest, the Supplier shall notify the Customer of the relevant legal requirement before processing the Personal Data), and (b) only for the duration of the Contract;
  - (b) not process such Personal Data for any purpose other than those set out in the Contract or otherwise expressly authorised by the Customer;
  - (c) take reasonable steps to ensure the reliability of all its personnel who have access to such Personal Data, and ensure that any such personnel are committed to binding obligations of confidentiality when processing such Personal Data;
  - (d) implement and maintain technical and organisational measures and procedures to ensure an appropriate level of security for such Personal Data, including protecting such Personal Data against the risks of accidental, unlawful or unauthorised destruction, loss, alteration, disclosure, dissemination or access;
  - (e) not transfer such Personal Data outside the European Economic Area without the prior written consent of the Customer;
  - (f) inform the Customer within twenty-four (24) hours if any such Personal Data is (while within the Supplier's or its subcontractors' or affiliates' possession or control) subject to a personal data breach (as defined in Article 4 of UK GDPR) or is lost or destroyed or becomes damaged, corrupted or unusable;
  - (g) only appoint a third party (including any subcontractors and affiliates) to process such Personal Data with the prior written consent of the Customer;
  - (h) not disclose any Personal Data to any Data Subject or to a third party other than at the written request of the Customer or as expressly provided for in the Contract;
  - (i) as the Customer so directs, return or irretrievably delete all Personal Data on termination or expiry of the Contract, and not make any further use of such Personal Data (except to the extent applicable law requires continued storage of the Personal Data by the Supplier and the Supplier has notified the customer accordingly);
  - (j) provide to the Customer and any DP Regulator all information and assistance necessary or desirable to demonstrate or ensure compliance with the obligations in this Clause 16.3 and/or the Data Protection Laws;
  - (k) permit the Customer or its representatives to access any relevant premises, personnel or records of the Supplier on reasonable notice to audit and otherwise verify compliance with this Clause 16.3;
  - (l) take such steps as are reasonably required to assist the Customer in ensuring compliance with its obligations under Articles 30 to 36 (inclusive) of GDPR;
  - (m) notify the Customer within two (2) Business Days if it receives a request from a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data; and
  - (n) provide the Customer with its full co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data.
- 16.4 If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other party or to either party's compliance with the Data Protection Laws, it shall as soon as reasonably practicable notify the other party and it shall provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.
- 16.5 The Supplier agrees to indemnify and keep indemnified and defend at its own expense the Customer against all costs, claims, damages or expenses incurred by the Customer or for which the customer may become liable due to any failure by the Supplier or its employees or agents to comply with any of its obligations under this Clause 16.
- 17 **FORCE MAJEURE**
- Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from a Force Majeure Event. If the period of delay or non-performance continues for six (6) weeks, the party not affected may terminate the Contract by giving thirty (30) days' written notice to the affected party.
- 18 **GENERAL**
- 18.1 Assignment and other dealings.
- (a) The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
  - (b) The Supplier shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.
- 18.2 Notices.
- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Order.
  - (b) A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if sent by email, at 9.00 am on the next Business Day after transmission.
  - (c) This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 18.3 Anti-Bribery, Corruption and Modern Slavery.
- The Supplier shall
- (a) comply with all applicable laws relating to: (i) anti-bribery and anti-corruption, including (but not limited to) the Bribery Act 2010; and (ii) anti-slavery and human trafficking, including (but not limited to) the Modern Slavery Act 2015;
  - (b) have and maintain in place its own policies and procedures to ensure compliance with Clause 18.3(a);
  - (c) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract; and promptly report to the Customer any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Contract.
- 18.4 Severance.
- If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of the Contract.
- 18.5 Waiver.
- A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 18.6 No partnership or agency.
- Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 18.7 Entire agreement.
- The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 18.8 Third party rights.
- (a) Unless it expressly states otherwise and subject always to Clause 18.8(c), the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
  - (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
  - (c) The Contract may be enforced by any member of the Vaillant Group as if it were the Customer.
- 18.9 Variation.
- Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.
- 18.10 Governing law.
- The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject

matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

### 18.11 Jurisdiction.

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.