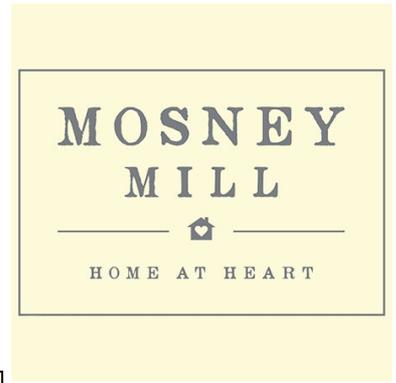


Mosney Mill Limited – The Form

This Credit Account Form (**'the Form'**) sets out the particulars of the credit account which Mosney Mill Limited (registered company number 10351430) and whose registered office is at Mosney Barn, Higher Walton Road, Walton Le Dale, Preston, Lancashire, PR5 4HR (**'Mosney Mill'**) is willing to offer to the customer whose details are set out below (**'the Customer'**).

The terms and conditions applicable to the credit account (**'the Account Terms'**) are enclosed herewith and must be signed before the Customer is granted a credit account.



Business Name	
----------------------	--

Business Type (delete as applicable)	Company / LLP / Partnership / Sole Trader
Corporate Registered Number (if applicable)	
Registered / Business Address	

Contact Details	Name	
	Email	
	Telephone Number	
	Fax Number	

	Name	Details	Personal Guarantee*?
Details of Directors / Partners / Controlling Individual			
Where a personal guarantee is being provided by the individual(s) named above, for the purposes of the Account Terms they shall be referred to as 'the Guarantors' and each 'a Guarantor' .			

Credit Limit	£
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Credit References	<p>Please provide the details of no less than three third parties which have offered credit to the Customer previously in order that pre-credit checks can be carried out:</p> <ol style="list-style-type: none"> 1. 2. 3.
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Payment Terms	
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Bank Details	Name		Account #	
	Address		Sort Code	

Signature	<p>The legally binding contract between the parties on which basis the credit account is based is comprised of this Form together with the Account Terms enclosed herewith (and any documents referred to therein including the Sale of Goods Terms and Conditions ('the SOG Terms')) ('the Contract'). Prior to this Contract coming into force, this Form must be signed and returned to Mosney Mill either (i) in person or via post to the address first set out above; or (ii) via email to info@mosneymill.co.uk.</p> <p>By signing below, I hereby warrant that I am duly authorised to do so for and on behalf of the Customer and have read, understood and agree to the Account Terms (and the SOG Terms) enclosed herewith (with particular attention having been given to clauses 3, 7 and 8).</p>
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- For and on behalf of the Customer	Signed:	Dated:
	Print Name:, acting for and on behalf of the Customer		

- As the provider(s) of a personal guarantee	<p>* Where a personal guarantee is being provided by the above named individuals, this Form must be signed by each below, indicating that they:</p> <ul style="list-style-type: none"> - have been given the opportunity to and have obtained legal advice; and - agree to provide a personal guarantee under the Account Terms on a personal basis, having particular regard to clause 6. 			
	Signed:	.....	Dated:	.....
	Print Name:	....., acting in a personal capacity		
	Signed:	.....	Dated:	.....
	Print Name:	....., acting in a personal capacity		
	Signed:	.....	Dated:	.....
	Print Name:	....., acting in a personal capacity		

Mosney Mill Limited – The Account Terms

1. INTERPRETATION

- 1.1 The defined terms used within this Contract shall take the meanings given to them in the SOG Terms, unless otherwise set out within the Form, these Account Terms or where the context otherwise provides.

Account Terms: means these terms and conditions.

Credit Limit: means the credit limit which the Customer is entitled to as set out within the Form or otherwise varied in accordance with clause 5 from time to time.

Commencement Date: the date on which the signed Form is received by Mosney Mill, being the date on which this Contract is formed as set out in clause 2.

Contract: shall take the meaning given to it in the Form.

Customer: shall take the meaning given to it in the Form.

Form: means the document headed as such and which the Customer is required to sign prior to the Contract being formed.

Mosney Mill: shall take the meaning given to it in the Form.

Guarantor(s): shall take the meaning given to it in the Form.

Payment Terms: shall mean the special terms on which the Customer shall pay Mosney Mill for the Goods as set out in the Form.

SOG Terms: means the terms and conditions set out in the Appendix (as varied by the terms of this Contract) and which form the basis on which Mosney Mill shall sell any Goods to the Customer.

Sale: means an individual contract formed under the SOG Terms between Mosney Mill and the Customer.

Term: means the term of this Contract.

- 1.2 The SOG Terms shall take effect as if set out in the body of these Account Terms save that where and to the extent that there is a conflict between the SOG Terms and these Account Terms, these Account Terms shall prevail to the extent of the inconsistency.

- 1.3 Where and to the extent that any of the terms set out within the SOG Terms take effect in accordance with clause 1.2 as if set out within this Contract, references within the SOG Terms shall, in the context of these Account Terms be taken as referring to this Contract.

2. CONTRACT FORMATION AND DURATION

- 2.1 These Account Terms set out the basis on which Mosney Mill grants the Customer with a credit account save that and for the avoidance of doubt the Contract shall not be formed until such time as the Customer has signed and returned the Form to Mosney Mill as directed in the Form.
- 2.2 Once formed this Contract shall remain in force indefinitely from the Commencement Date unless and until terminated in accordance with clause 7 below.

3. PURCHASING GOODS AND CREDIT LIMIT – SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE

- 3.1 Individual Orders made by the Customer from time to time throughout the Term shall be made in accordance with the mechanism set out in the SOG Terms save to the extent that the same are amended, varied or added to by these Account Terms and the Form.
- 3.2 The Customer may from time to time raise Orders up to a cumulative amount not exceeding the Credit Limit.

- 3.3 The Customer agrees and acknowledges that Mosney Mill may decrease the Credit Limit at its absolute discretion on immediate notice in the event that the Customer has breached the Contract or where Mosney Mill reasonably believes that it shall do so.

- 3.4 In the event that the Customer would like to increase the Credit Limit then it must make a written application to Mosney Mill. Mosney Mill shall confirm whether such application is accepted or rejected and in the event that it accepts the application, it may at its absolute discretion amend any of the terms of this Contract, including but not limited to the Payment Terms.

- 3.5 At the end of each calendar month, Mosney Mill shall raise an invoice for the balance of all Charges incurred by the Customer during that month and the Customer agrees that unless otherwise specified in the Payment Terms, it shall pay such balance within 30 days of the date of the invoice.

- 3.6 Notwithstanding the amount of any payment received from the Customer by Mosney Mill, all payments received by it shall be applied to the oldest outstanding sums due and payable to it by the Customer.

4. NON-SOLICITATION

- 4.1 A party shall not, without the prior written consent of the other party, at any time from the Commencement Date to the expiry of 24 months after the later of the completion date of the final Contract or the end of the, solicit or entice away from that party or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of that party.

- 4.2 Where any consent is given by Mosney Mill in accordance with clause 4.1, such consent shall be subject to the Customer paying to the consenting party a sum equivalent to 20% of the then current annual remuneration of the Mosney Mill employee, consultant or subcontractor or, if higher, 20% of the annual remuneration to be paid by Mosney Mill to that employee, consultant or subcontractor.

5. WARRANTIES

- 5.1 Each party warrants that:

- (a) it has full power and authority to carry out the actions contemplated under this Contract;
- (b) its entry into and performance of this Contract will not infringe the intellectual property rights of any third party or cause it to be in breach of any obligations to a third party; and
- (c) so far as it is aware, all information, data and materials provided by it will be true, accurate and complete in all material respects, and it is entitled to provide the same to the other without recourse to any third party.

- 5.2 Except as expressly provided in this Contract, there are no conditions, warranties or other terms binding on the parties with respect to the actions contemplated by this Contract. Any condition, warranty or other term in this regard that might otherwise be implied or incorporated into this Contract, whether by statute, common law or otherwise, is, to the extent that it is lawful to do so, excluded by this Contract.

6. PERSONAL GUARANTEE – SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE

- 6.1 Each Guarantor irrevocably guarantees to pay to Mosney Mill all money which is now or may at any time after the date of this Contract become due or owing to Mosney Mill by the Customer pursuant to or in connection with the Contract notwithstanding that

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the Guarantor may not have notice of any neglect or omission on the Customer's part under the Contract.

6.2 Where the Guarantor is more than one person:

- (a) all of them are jointly and severally liable under this Contract;
- (b) Mosney Mill shall have the same rights as if the Contract were a separate guarantee by each Guarantor;
- (c) Mosney Mill may settle with or release from liability any of them, without releasing or reducing the liability of the others; and
- (d) the liabilities of each of them under this Contract is severable. If the Contract, or any provision of it, is unenforceable against any of them, it will not affect the enforceability or continuation of the Contract in respect of any others.

6.3 As a separate and independent obligation each Guarantor as principal obligor agrees to indemnify Mosney Mill against any Losses suffered as consequence of material breach or non-performance by the Customer of its obligations and/or liabilities pursuant to the Contract.

6.4 This Guarantee shall be a continuing guarantee and the liability of the Guarantor under this Contract shall not be released or diminished by any variation in the terms of the Contract or forbearance, neglect or delay by Mosney Mill in seeking performance of the obligations of the Customer or the Guarantor under the or any granting of time for such performance.

6.5 If the Customer is in breach or default in the performance of any obligation or liability under the Contract the Guarantor undertakes forthwith on demand unconditionally to perform or procure the performance of the obligation or liability in such manner to ensure that Mosney Mill shall receive the entire benefit it would have received had such obligation or liability been performed or discharged by the Customer.

6.6 The Guarantor undertakes that the Guarantor shall not during the term of the Contract do or omit to do anything which might lead to any of the events set out in clause 7.2(c) – (m) to occur in relation to the Customer.

6.7 Mosney Mill shall not be obliged to take any action or obtain judgment against the Customer before taking steps to enforce any of its rights or remedies against the Guarantor.

6.8 Any demand or notice on under this clause 6 shall be in writing signed by an officer of Mosney Mill and will be served on the Guarantor personally at the address set out above or any other place where the Guarantor may be present (including but not limited to the address of the Customer).

7. TERMINATION OF THIS CONTRACT – SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE

7.1 Without affecting any other right or remedy available to it, either party may terminate this Contract by serving no less than 10 Business Days' notice to the other for any reason.

7.2 Without affecting any other right or remedy available to it Mosney Mill may terminate (or suspend) this Contract with immediate effect by giving written notice to the Customer:

- (a) if the Customer commits a material breach of any term of this Contract (or a Sale) which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 5 Business Days after being notified in writing to do so;
- (b) if the Customer repeatedly breaches any of the terms of this Contract (or a Sale) in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract (or a Sale);
- (c) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR (being an individual)

is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR (being a partnership) has any partner to whom any of the foregoing apply;

(d) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;

(e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;

(f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Customer (being a company);

(g) the holder of a qualifying floating charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;

(h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;

(i) the Customer (being an individual) is the subject of a bankruptcy petition or order;

(j) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Customer's assets and such attachment or process is not discharged within 10 Business Days;

(k) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 7.2(c) to clause 7.2(j) (inclusive);

(l) the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

(m) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

8. CONSEQUENCES OF TERMINATION – SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE

8.1 On termination of this Contract, each Sale then in force at the date of such termination and the obligations of the Guarantor under this Contract in respect thereof shall continue in full force and effect, unless otherwise terminated in accordance with the provisions of the SOG Terms.

8.2 On termination of this Contract, unless such items are needed by it to perform its obligations under a Sale (and only until the end of such time), each party shall immediately:

(a) return or destroy (as directed by the other party) any documents, handbooks, or other information or data provided to it by the other party for the purposes of this Contract. If reasonably required by the other party, it shall provide written evidence (in the form of a letter signed by it that these have been destroyed and that it has not retained any copies of them; and

(b) return all of the other party's equipment and materials, failing which, the other party may enter the relevant premises and take possession of them. Until these are returned or repossessed, that party shall be solely responsible for their safe-keeping.

Appendix – SOG Terms

SALE OF GOODS TERMS AND CONDITIONS

The Customer's attention is drawn in particular to the provisions of clauses 4, 6 and 9.

1. Interpretation

1.1 In these Conditions, the following definitions apply:

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

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 11.6.

Contract: the contract between Mosney Mill and the Customer for the sale and purchase of the Goods incorporating the Proposal and these Conditions.

Customer: the person or firm to whom Mosney Mill wishes to provide the Goods and which wishes to purchase the Goods from Mosney Mill as detailed in the Proposal.

Delivery Location: has the meaning given in clause 4.2.

Force Majeure Event: has the meaning given in clause 10.

Goods: the goods (or any part of them) set out in the Order, having been referred to initially within the Proposal.

Loss: actions, awards, charges, claims, costs, damages, demands, expenses, fees, fines, liabilities, losses, penalties and proceedings.

Mosney Mill: Mosney Mill Limited (registered in England and Wales with company number 10351430) and whose registered office is at Mosney Barn, Higher Walton Road, Walton Le Dale, Preston, Lancashire, PR5 4HR.

Order: the Customer's written purchase order for the Goods (in whatever form this may be and which shall for the avoidance of doubt include email), raised in response to the Proposal and in accordance with clause 2 below.

Order Period: has the meaning given in clause 2.2.

Proposal: Mosney Mill's written quotation or proposal (in whatever form this may be and which shall for the avoidance of doubt include email) to provide the Goods to the Customer incorporating these Conditions.

Sales Materials: has the meaning given in clause 2.5.

Specification: any specification for the Goods, including any related plans, images and other drawings, that are set out in the Proposal or otherwise agreed in writing by the Customer and Mosney Mill.

Warranty Period: has the meaning given in clause 5.1.

1.2 In these Conditions, the following rules apply:

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.

1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.4 Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.2.5 A reference to **writing** or **written** includes emails.

2. Formation and Basis of Contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Proposal shall remain valid for a period of 20 Business Days from the date on which it was issued (**Order Period**) and if the Customer accepts the position set out in the Proposal then it shall be required to raise an Order within the Order Period.

2.3 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions and shall not incorporate any other terms and conditions beyond those set out in the Contract. The Customer is responsible for ensuring that the terms of the Proposal and the Order and any applicable Specification submitted by the Customer are complete and accurate.

2.4 Mosney Mill may reject the Order at its absolute discretion and for any reason whatsoever and the Order shall only be deemed to be accepted at the earlier of when Mosney Mill delivers the Goods or issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.5 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Mosney Mill including, for the avoidance of doubt, the information included in Mosney Mill's catalogues, brochures or other publications (including any website operated by it from time to time) (**Sales Materials**), which is not set out in the Contract.

2.6 Any samples, drawings, descriptive matter, or advertising produced by Mosney Mill and any descriptions, colours or illustrations contained in the Sales Materials are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

3. Goods

3.1 The Goods are described in the Sales Materials as modified or supplemented by any applicable Specification.

3.2 The Customer shall indemnify Mosney Mill against all Losses (including any direct, indirect, special or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Mosney Mill in connection with any claim made against Mosney Mill for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Mosney Mill's use of the Specification. This clause 3.2 shall survive termination of the Contract.

3.3 Mosney Mill reserves the right to amend the specification of the Goods and, where applicable, the Specification if required by any applicable statutory or regulatory requirements from time to time in force or to improve the Goods where to do so would not have a material adverse effect on the Customer.

4. Delivery – Special Attention is Drawn to this Clause

4.1 Mosney Mill shall ensure that:

4.1.1 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Mosney Mill reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

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- 4.1.2 if Mosney Mill requires the Customer to return any packaging materials to Mosney Mill, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as Mosney Mill shall reasonably request. Returns of packaging materials shall be at Mosney Mill's expense.
- 4.2 Mosney Mill (or, where appropriate, the instructed carrier) shall deliver the Goods to the location set out in the Proposal or such other location as the parties may agree (**Delivery Location**).
- 4.3 Unless otherwise agreed, delivery of the Goods shall be on the basis of EXW (Mosney Barn, Higher Walton Road, Walton Le Dale, Preston, Lancashire, PR5 4HR) (Incoterms 2010).
- 4.4 Any dates quoted for delivery are approximate only and Mosney Mill is under no obligation to provide an estimated delivery time. If a quoted date for delivery is not provided, delivery will be made within a reasonable time and for the avoidance of doubt the time of delivery is not of the essence.
- 4.5 Mosney Mill shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event suffered by it or an instructed carrier or the Customer's failure to provide Mosney Mill with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.6 If the Customer fails to take physical delivery of the Goods within seven Business Days of Mosney Mill notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event:
- 4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the second Business Day after the day on which Mosney Mill notified the Customer that the Goods were ready; and
- 4.6.2 Mosney Mill shall store the Goods until actual physical delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.7 If 10 Business Days after the day on which Mosney Mill notified the Customer that the Goods were ready for physical delivery the Customer has not taken physical delivery of them, Mosney Mill may resell or otherwise dispose of part or all of the Goods.
- 4.8 The Customer shall not be entitled to reject the Goods if Mosney Mill delivers up to and including 5% more or less than the quantity of Goods ordered. The actual quantity of the Goods shall be as determined by Mosney Mill upon despatch from Mosney Mill's or a nominated carrier's premises unless reasonable contrary proof is provided by the Customer.
- 4.9 Mosney Mill may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 5. Quality**
- 5.1 Mosney Mill warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**), the Goods shall:
- 5.1.1 conform in all material respects with their description and any applicable Specification;
- 5.1.2 be free from material defects in design, material and workmanship;
- 5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- 5.1.4 be fit for any purpose held out by Mosney Mill.
- 5.2 Subject to clause 5.3, if:
- 5.2.1 the Customer gives notice in writing to Mosney Mill during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
- 5.2.2 Mosney Mill is given a reasonable opportunity of examining such Goods; and
- 5.2.3 the Customer (if asked to do so by Mosney Mill) returns such Goods to Mosney Mill's place of business at the Customer's cost (such reasonable return costs to be refunded to the Customer if the Goods are found to not comply with the warranty set out in clause 5.1),
- Mosney Mill shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full in addition to any reasonable return costs in accordance with clause 5.2.3.
- 5.3 Mosney Mill shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:
- 5.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;
- 5.3.2 the defect arises because the Customer failed to follow Mosney Mill's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 5.3.3 the defect arises as a result of Mosney Mill following any drawing, design or Specification supplied by the Customer;
- 5.3.4 the Customer alters or repairs such Goods without the written consent of Mosney Mill;
- 5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 5.3.6 the Goods differ from their description and any Specification provided as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.4 Except as provided in this clause 5, Mosney Mill shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.6 These Conditions shall apply to any repaired or replacement Goods supplied by Mosney Mill.
- 6. Title and Risk – Special Attention is Drawn to this Clause**
- 6.1 Title to the Goods shall not pass to the Customer until the earlier of:
- 6.1.1 Mosney Mill receiving payment in full (in cash or cleared funds) for the Goods and any other goods that Mosney Mill has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; or
- 6.1.2 the Customer reselling the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.3 and the proceeds of sale shall be immediately accounted to Mosney Mill and otherwise held in a fiduciary capacity on trust for Mosney Mill to the extent of any liability for unpaid sums.
- 6.2 Until title to the Goods has passed to the Customer, the Customer shall:
- 6.2.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Mosney Mill's property;
- 6.2.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.2.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 6.2.4 notify Mosney Mill immediately if it becomes subject to any of the events listed in clause 8.2; and
- 6.2.5 give Mosney Mill such information relating to the Goods as Mosney Mill may require from time to time.

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6.3 Subject to clause 6.4, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Mosney Mill receives payment for the Goods. However, if the Customer resells the Goods before that time:

6.3.1 it does so as principal and not as Mosney Mill's agent; and

6.3.2 title to the Goods shall pass from Mosney Mill to the Customer immediately before the time at which resale by the Customer occurs.

6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 8.2, then, without limiting any other right or remedy Mosney Mill may have:

6.4.1 the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and

6.4.2 Mosney Mill may at any time:

(a) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and

(b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. Price and Payment

7.1 The price of the Goods shall be the price set out in the Proposal, or, if no price is quoted, the price set out in the Sales Materials or Mosney Mill's published price list in force as at the date of delivery or, if earlier in accordance with this clause 7, when payment becomes due.

7.2 Mosney Mill may, by giving notice to the Customer at any time up to 5 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

7.2.1 any factor beyond Mosney Mill's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

7.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

7.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give Mosney Mill adequate or accurate information or instructions,

in which case the Customer shall notify Mosney Mill within 2 Business Days of receipt of such notification if it rejects such increase in price.

7.3 Unless otherwise agreed between the parties, the price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

7.4 The price of the Goods is exclusive of amounts in respect of value added tax (VAT). The Customer shall, on receipt of a valid VAT invoice from Mosney Mill, pay to Mosney Mill such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

7.5 The Customer may apply for a credit account in writing and such application will then be determined in Mosney Mill's absolute discretion taking into account, amongst other things, the Customer's credit application and the results of a credit search against the Customer. The Customer acknowledges and agrees that it has no recourse against Mosney Mill if Mosney Mill refuses to provide credit.

7.6 Where credit is made available, the Customer will be notified in writing of such credit arrangement and the terms and conditions under which such credit is provided, which includes the provisions at clauses 7.7 to 7.10 below. Credit may be withdrawn at any time in Mosney Mill's absolute discretion and the Customer acknowledges and agrees that it has no remedy against Mosney Mill in relation to any withdrawal of credit.

7.7 Where the Customer is not subject to a credit agreement with Mosney Mill, it agrees and acknowledges that payment of all

invoices must be made prior to delivery of any Goods being made and that Mosney Mill shall withhold delivery of the Goods until such time as it is in receipt of full payment.

7.8 If the Customer fails to make any payment due to Mosney Mill under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 8% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

7.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Mosney Mill may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Mosney Mill to the Customer.

8. Termination and Suspension

8.1 If the Customer becomes subject to any of the events listed in clause 8.2, Mosney Mill may terminate the Contract with immediate effect by giving written notice to the Customer.

8.2 For the purposes of clause 8.1, the relevant events are:

8.2.1 the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;

8.2.2 the Customer takes any step or action in connection with its entering 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;

8.2.3 the Customer takes any step or action in connection with the Customer being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his 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;

8.2.4 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;

8.2.5 the Customer's financial position deteriorates to such an extent that in Mosney Mill's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and

8.2.6 (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

8.3 Without limiting its other rights or remedies, Mosney Mill may suspend provision of the Goods under the Contract or any other contract between the Customer and Mosney Mill if the Customer becomes subject to any of the events listed in clause 7.2(c) to clause 8.2.6, or Mosney Mill reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

8.4 On termination of the Contract for any reason the Customer shall immediately pay to Mosney Mill all of Mosney Mill's outstanding unpaid invoices and interest.

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8.5 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

8.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

9. Limitation of Liability and Indemnity – Special Attention is Drawn to this Clause

9.1 Nothing in these Conditions shall limit or exclude Mosney Mill's liability for:

9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

9.1.2 fraud or fraudulent misrepresentation;

9.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;

9.1.4 defective products under the Consumer Protection Act 1987; or

9.1.5 any matter in respect of which it would be unlawful for Mosney Mill to exclude or restrict liability.

9.2 Subject to clause 9.1:

9.2.1 Mosney Mill shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:

(a) loss of profit;

(b) loss of goodwill;

(c) loss of business;

(d) loss of business opportunity;

(e) loss of anticipated saving;

(f) loss or corruption of data or information; or

(g) any indirect, special or consequential Loss, that arises under or in connection with the Contract; and

9.2.2 Mosney Mill's total liability to the Customer in respect of all other Losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total net price of the Goods paid by the Customer to Mosney Mill under the Contract.

9.3 The Customer shall indemnify Mosney Mill, keep Mosney Mill indemnified and hold Mosney Mill harmless for and against any and all Losses howsoever arising out of or in connection with any of the Customer's acts or omissions under this Contract and whether in contract, tort (including negligence), breach of statutory duty or otherwise.

10. Force Majeure

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

11. General

11.1 Assignment and other dealings.

11.1.1 Mosney Mill may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

11.1.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Mosney Mill.

11.2 Notices.

11.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.

11.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 11.2.1; 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 delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

11.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

11.3 Severance.

11.3.1 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.

11.3.2 If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

11.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

11.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

11.6 **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 in writing and signed by Mosney Mill.

11.7 **Governing law.** The 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 the law of England and Wales.

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