

MyDek Terms and Conditions of Sale ("**Conditions**")

1. DEFINITIONS

In these Conditions the following expressions shall have the following meanings:

"Actual Date of Delivery" the date on which delivery of the Goods or Services takes place.

"Buyer" The individual or other party from whom an Order to Supply Goods and/or provide Services is received by the Seller.

"Contract" a contract between the Seller and the Buyer for the sale and purchase of the Goods and/or Services in accordance with these Conditions.

"Design Assist" the technical guidance provided by the Seller to support the use and installation of the Goods, without assuming responsibility for the project's overall design or regulatory compliance.

"Proposed Date of Delivery" the date(s) for delivery of the Goods or Services that the Seller proposes.

"Goods" the goods or items which the Seller is to supply under the Contract.

"Order" the Buyer's order for the Goods, as set out in the Buyer's purchase order or the Buyer's written acceptance of the Seller's quotation.

"Sales Order Acknowledgement" the written document issued by the Seller to the Buyer confirming the Seller's acceptance of an Order and setting out the Goods to be supplied, quantities, prices, anticipated delivery arrangements and any other applicable order-specific terms.

"Seller" MyDek Limited or such other group company as is expressly identified as the seller in the Sales Order Acknowledgement.

"Services" the services which the Seller is to supply under the Contract.

"Writing" and "written" includes letter or email.

2. ORDERS, ACKNOWLEDGEMENTS, CONDITIONS AND VARIATIONS

- 2.1 Notwithstanding that the Seller may have given a detailed quotation or estimate either verbally or in Writing, no Order shall be binding on the Seller unless and until the Seller has provided a Sales Order Acknowledgement.
- 2.2 These Conditions are incorporated in the Contract and contain the entire obligations between the Seller and the Buyer. In the case of any inconsistency between any letter or quotation incorporating or referring to these Conditions and any Order, letter or form or contract sent by the Buyer to the Seller, whatever may be their respective dates, the provisions of these Conditions shall prevail.
- 2.3 These Conditions apply to all the Seller's sales and any variation of these Conditions and any representations about the Goods and/or the Services shall have no effect unless expressly agreed in Writing by the Seller and signed by a Director of the Seller.

3. GOODS & SERVICES

- 3.1 The description of the Goods and/or Services shall be set out in the Sales Order Acknowledgement. Responsibility for final quantities of Goods rests with the Buyer and the Seller is not responsible for quantity discrepancies (whether over or under) except where delivered quantities vary from those set out in the Sales Order Acknowledgement.
- 3.2 Any figures, statements, descriptions, illustrations, photographs, drawings, weights or any other matters contained in the Seller's catalogues, pamphlets, price lists or advertising literature are not guaranteed to be accurate and are intended merely to represent a general picture of the Seller's products and services and shall not form part of the Contract nor be regarded as a warranty or representation relating to the Goods or Services. For the avoidance of doubt, any product recommendations, value engineering proposals, specification advice, material selection, technical guidance or opinions provided by the Seller are provided solely to assist the Buyer in evaluating available options and shall not constitute professional advice, design services or a recommendation that the Goods or Services are suitable for the Buyer's particular

project. Responsibility for selecting the appropriate product remains solely with the Buyer and its appointed professional advisers.

- 3.3 If the Buyer wishes to order the Goods in accordance with a particular grade or specification the Buyer must state this in the Order and any accompanying drawings, and such specification must be confirmed in the Sales Order Acknowledgement. Notwithstanding the foregoing, the Seller may make non-material changes to the specification which do not materially adversely affect the quality, performance or functionality of the Goods, or changes required to comply with applicable law or safety requirements. The Seller shall notify the Buyer of any material change which shall be deemed accepted by the Buyer unless the Order is cancelled in accordance with these Conditions within five business days of such notification.

4. DESIGNS, BUYER'S PROPERTY AND INTELLECTUAL PROPERTY

- 4.1 No right of ownership or interest in the Seller's patents, registered designs, trademarks, copyrights or any other intellectual property owned by the Seller shall pass in any way to the Buyer in relation to the Goods or Services provided under these Conditions, including where Goods are made or supplied to the Buyer's own specification, pattern or design.
- 4.2 Where Goods are made or supplied to the Buyer's own specification, pattern or design or where standard goods of the Seller are altered in accordance with the Buyer's instructions:
- 4.2.1 the Buyer warrants and undertakes that it shall be fully responsible not only for the suitability and fitness of the specification, pattern or design for the purpose but also that such specification, pattern or design does not infringe any patent, trademark, registered design, copyright or any other proprietary right of any third party and the Buyer shall indemnify and keep the Seller indemnified in full against any loss, damage or expense whatsoever (including legal costs) which the Seller may incur in or arising from the performance of the Contract by reason of any infringement of any such patent, trade mark, registered design, copyright or any other proprietary right and the Buyer acknowledges that the Seller shall have no liability to the Buyer or otherwise beyond that expressly provided for in these Conditions.
- 4.2.2 the Seller is entitled to rely upon project information provided by the Buyer (including, without limitation, the accuracy and completeness of all information, dimensions, specifications, drawings, loadings, surveys, structural information, loading criteria, fire strategy, Building Regulations compliance, substrate suitability, waterproofing design or any project assumptions, site information and project details supplied by or on behalf of the Buyer) without independent verification and shall have no responsibility to verify the same nor liability for any inaccuracy in any information provided to it by the Buyer. As between the Buyer and the Seller, the Buyer remains solely responsible for final integration of the Goods or Services into any wider building, refurbishment, system or other design. The Buyer warrants that all information supplied to the Seller has been independently verified by the Buyer's appointed professional team.
- 4.2.3 The Buyer acknowledges that it has not relied solely upon any statement, recommendation, opinion, drawing, calculation, specification assistance, product suggestion, value engineering proposal or technical guidance provided by the Seller when selecting the Goods and confirms that it has obtained, or has had the opportunity to obtain, independent professional advice before incorporating the Goods into any project.
- 4.3 Any replacements, alteration or repair to any Buyer's patterns or equipment shall be paid for by the Buyer.
- 4.4 The Seller shall have no liability for any loss of or damage to any Goods, patterns, equipment or other items of the Buyer's property whilst on the Seller's premises arising from inadequate storage or any unauthorised, injurious act or default by any employee of the Seller or otherwise and the Buyer shall arrange its own insurance at all times for such equipment.
- 4.5 The Seller shall have a general lien on the entire Buyer's property (including any Goods which have been paid for but not yet been delivered) in the Seller's possession for all sums due at any time from the Buyer and shall be entitled to retain possession of, use, sell or dispose of such property as agent for and at the expense of the Buyer and apply the proceeds in and towards the payment of such sums on 28 days' notice in Writing to the Buyer. On accounting to the Buyer for any balance remaining after payment of any sums due to the Seller and the costs of sale or disposal, the Seller shall be discharged of any liability whatsoever in respect of the Buyer's property.

- 4.6 The Seller may, at any time and without notice, set off any liability of the Buyer to the Seller against any liability of the Seller to the Buyer, whether such liabilities arise under these Conditions or any other contract between the parties. Any exercise by the Seller of its rights under this clause shall not limit or affect any other rights or remedies available to it.

5. QUOTATIONS AND PRICE

- 5.1 Subject to the provisions of clause 7.2, the Seller's quotations shall be valid for the number of days detailed on the quotation but no more than 30 days and are provisional in so far as they are subject to alteration by reference to any changes in the price of raw materials, any item to be acquired by the Seller from a third party, rates of wages, other costs of production and any other circumstances beyond the Seller's control taking place between the date of the quotation and the Buyer's placing of any Order in respect thereof.
- 5.2 The Goods will be supplied Ex Works from the Seller's warehouse facility unless clearly stated otherwise in the Sales Order Acknowledgement.
- 5.3 The Buyer agrees that the Seller shall be entitled to adjust the Contract price of the Goods and/or Services whether before or after the making of the Contract in the event of any variation in the cost to the Seller of supplying the same or any part thereof caused by:
- 5.3.1 any increase in the cost of materials or services required by the Seller for the completion of the Contract or,
 - 5.3.2 any increase in wages or production and manufacturing costs or other overheads or any other reason whatsoever beyond the control of the Seller including (but without prejudice to the generality of the foregoing) fluctuations in exchange rates between monetary currencies, the action of any government or any other authority or any labour problems or any increase in the London Metal Exchange rate for materials.
 - 5.3.3 Unless expressly stated otherwise in the Sales Order Acknowledgement, prices are based upon the costs of materials, labour, energy, freight, exchange rates, duties, tariffs and other input costs applicable at the date of the Seller's quotation. Where manufacture, procurement or delivery of any Goods occurs more than 120 days after the date of the Sales Order Acknowledgment, the Seller may adjust the price of the affected Goods to reflect any increase in such costs since the date of the Sales Order Acknowledgment, including any increase in aluminium or other commodity prices or relevant London Metal Exchange rates.
- Nothing in this clause 5.3 shall limit the Seller's rights under clause 7.3, where such delay arises wholly or partly from an act or omission of the Buyer or its project team.
- 5.4 Unless otherwise stated, the price set out in the Seller's quotation shall be exclusive of any value added tax, insurance, packaging, cost of carriage to the contracted place of delivery, cost of offloading and/or installation of the Goods (which offloading and/or installation costs shall for the avoidance of doubt be at the Buyer's sole risk and expense).
- 5.5 Samples submitted to the Buyer will be payable by the Buyer unless returned to the Seller, carriage paid, within one month from the date of dispatch. In instances where the Seller is working from a new altered pattern or design, or where standard goods of the Seller are altered in accordance with the Buyer's instruction, the Seller may submit samples, but the manufacture of the Order will only be commenced on written confirmation from the Buyer of the amended Sales Order Acknowledgement.
- 5.6 When providing surveys, layout drawings, calculations or technical submissions, the Seller reserves the right to charge the Buyer for redesign, revisions, late information changes, changed specifications and/or changed loadings.
- 5.7 Any typographical, clerical, arithmetical or other manifest error or omission in any quotation, price list, Sales Order Acknowledgement, invoice, drawing, specification or other document issued by the Seller may be corrected by the Seller without liability. Where such an error materially affects the price or scope of an Order which has already been accepted, the Seller shall notify the Buyer promptly and the parties shall proceed on the basis of the corrected price or scope, provided that where the correction results in a material increase in price the Buyer may cancel the affected part of the Order within 5 working days of notification, subject to payment of any non-recoverable costs already reasonably incurred by the Seller.

6. FINISH LIMITATIONS

- 6.1 The Buyer acknowledges and agrees:

- 6.1.1 Powder coating coverage: Due to the nature of the electrostatic powder coating process, the Seller cannot guarantee 100% coverage to every facet of the underside of the decking board profile due to the faraday cage effect. In particular, inward facing surfaces and internal angles may be affected. Achieving 100% coating in these areas requires additional application of powder which could affect the overall fire rating of the product due to increased thickness of powder on the main surface.
- 6.1.2 All powders can show colour, tone and gloss differences from batch to batch or product to product; this is normal and unavoidable. The Buyer is advised to install individual areas using boards from a single batch. Unless otherwise specified the Seller's decking coatings are fine texture.
- 6.2 Due to Luxura being made of naturally occurring raw materials, the colour and patternation of Goods can vary from batch to batch. This is expected and unavoidable. The Buyer is advised to install individual areas using products from a single batch. These natural raw materials do change colour depending on the climate that the boards are installed in and will also change depending on weather at the time like any other natural product does. The colour of any samples provided are only advisory as it is dependent on the originating batch. Consequently, the Goods delivered may be a different colour from the sample. The Buyer acknowledges and agrees that:
- 6.2.1 the Goods may exhibit natural, inherent or unavoidable variations in appearance, colour, shade, tone, texture, finish, gloss level, patternation, grain effect and weathering characteristics;
- 6.2.2 variations between samples, brochures, marketing materials, previous batches, production runs or installed products shall not constitute a defect provided the Goods remain materially consistent with the agreed product specification;
- 6.2.3 samples, photographs, marketing materials and display products are provided for illustrative purposes only and shall not be taken as an exact representation of the Goods supplied; and
- 6.2.4 aesthetic dissatisfaction alone shall not constitute a defect and shall not entitle the Buyer to reject Goods, withhold payment or claim compensation.
- 6.2.5 The following characteristics shall not constitute defects in the Goods and shall not give rise to any claim under warranty or otherwise:
- (a) colour variation;
 - (b) tonal variation;
 - (c) gloss variation;
 - (d) texture variation;
 - (e) batch-to-batch variation;
 - (f) weathering effects;
 - (g) localised separation between compressed layers, edge opening, surface movement or delamination arising from the inherent characteristics of the product and not from a defect in manufacture, materials or workmanship;
 - (h) fading, whitening, darkening or natural ageing;
 - (i) environmental effects arising from climate, location, contamination or exposure conditions; and
 - (j) minor visual imperfections which do not materially affect the performance of the Goods.
- 6.3 Luxura boards are manufactured by compressing multiple layers of the same material to form a composite board. The Buyer acknowledges that, due to the inherent characteristics of this manufacturing process and the natural movement of composite materials during their service life, localised separation between compressed layers, edge opening, surface movement or delamination may occur. Where such characteristics arise as a

consequence of the inherent nature of the product, and not as a result of a manufacturing defect, they shall not constitute a defect in the Goods or a breach of this Contract.

7. ORDERS

- 7.1 No Order which has been accepted by the Seller may be cancelled by the Buyer without the Seller's prior Written consent. If the Buyer wishes to cancel an Order for Goods, due to no fault of the Seller, the Seller will be entitled to charge and the Buyer shall pay an administration fee of not less than £100 and not greater than 100% of the Order value. The Seller will charge the Buyer, as a minimum, the costs incurred to the point of Order cancellation acceptance.
- 7.2 In the event that the Buyer makes a change request to an Order that results in a change in the Goods supplied, additional manufacturing time, design changes, revised calculations, revised layouts or revised compliance requirements that was not in the original quote, the Seller reserves the right to amend the price of the Order, add extra fees, revise lead times or revise manufacture location and is no longer bound to those provided on the original quote. If, after the Seller accepts an Order, the Buyer changes the scope or timescales required that, as a result, forces the Supplier to amend the manufacture location, the Seller reserves the right to increase the price of the Order in question to reflect the additional costs of such changes.
- 7.3 Where the Seller's performance of the Contract is prevented, delayed, disrupted or made more costly by any act or omission of the Buyer or any person acting on its behalf, including any failure or delay in providing drawings, dimensions, specifications, approvals, instructions, loadings, design information, site information, delivery instructions, access, decisions or other information reasonably required by the Seller:
 - 7.3.1 any affected programme, manufacturing date, lead time or Proposed Date of Delivery shall be extended by such period as is reasonably required as a consequence of the delay;
 - 7.3.2 the Seller may revise its manufacturing programme, manufacturing location, procurement arrangements and Proposed Date of Delivery;
 - 7.3.3 the Buyer shall reimburse the Seller for all reasonable additional costs and expenses thereby incurred, including additional material, labour, design, engineering, storage, handling, freight and administration costs;
 - 7.3.4 the Seller may adjust the Contract price to reflect increases in input costs occurring during the period of delay; and
 - 7.3.5 the Seller shall have no liability for any delay, disruption or consequential project costs arising from or attributable to such act, omission or delay.
- 7.4 Unless expressly confirmed otherwise in the Sales Order Acknowledgement, any programme, anticipated call-off date, construction programme, delivery schedule or other project date supplied by the Buyer is provided for planning purposes only and shall not require the Seller to reserve manufacturing capacity, procure materials in advance, maintain pricing indefinitely or store Goods without charge. Where manufacture, procurement, call-off or delivery is postponed beyond the dates or assumptions upon which the Seller's quotation or Sales Order Acknowledgement was based, the Seller may revise its pricing, programme, manufacturing location, procurement arrangements and delivery arrangements and recover any reasonable additional costs thereby incurred.

8. DELIVERY

- 8.1 Subject to the Buyer complying with the applicable payment terms under clause 12, the Seller shall make the Goods available for collection by the Buyer on the Proposed Date of Delivery. If the Contract expressly sets out agreed prices that the Buyer is paying for delivery, the Seller shall deliver the Goods to the location set out in the Order or such other location (at the Buyer's cost) as the parties may otherwise agree in Writing. At all times the Buyer is liable for any import costs including duty and/or other applicable taxes.
- 8.2 Delivery shall be deemed to be effected by the Seller, where:
 - 8.2.1 Goods are collected by or on behalf of the Buyer by its servants or agents: when the same are collected;
 - 8.2.2 Goods are to be delivered by the Seller: when the same arrive prior to unloading at the Buyer's premises or at premises nominated by the Buyer or at the nearest accessible road point to such premises;

- 8.2.3 Goods are delivered by an independent carrier: at the time of loading onto the carrier's vehicle;
- 8.2.4 Goods shipped by parcel courier can take up to three working days to arrive; or
- 8.2.5 in the case of Services: shall be deemed to be delivered at the time of full completion by the Seller of the Services, provided that payment has been made in full by such time.
- 8.3 Whilst the Seller will make every reasonable effort to complete the Contract by the Proposed Date of Delivery, such date or dates shall only constitute the times by which the Seller expects to effect such delivery and if no time is agreed, delivery and/or provision will be within a reasonable time. The time for performance of the Contract by the Seller shall not be of the essence and the Seller's failure to deliver and/or provide the Goods and/or Services by the Proposed Date of Delivery shall not constitute a breach of Contract and the Seller shall not in any circumstances be liable to the Buyer for any loss or damage of any kind whatsoever resulting from such failure.
- 8.4 Deliveries will be charged for in full if cancelled within four working days of Proposed Date of Delivery.
- 8.5 Neither party shall be liable to the other for any delay in meeting a Proposed Date of Delivery directly due to any causes beyond the reasonable control of the parties. Notwithstanding the foregoing, the affected party shall promptly upon the occurrence of any such cause inform the other party in Writing and shall use all reasonable efforts to deliver the Goods and/or Services as promptly as commercially practical after such cause has ceased to impact the party so affected.
- 8.6 The Seller reserves the right to apply an additional surcharge for express or timed deliveries, FORS or Moffatt deliveries. Additional freight charges may also be applied by the Seller in the event that the Buyer amends its delivery requirements after the Order is placed.
- 8.7 Unless expressly agreed otherwise in Writing by the Seller, delivery of the Goods does not include the removal, collection or disposal of any pallets, packaging, wrapping, banding or other materials used for the transportation or protection of the Goods. All such materials shall remain at the delivery location following delivery and the Buyer shall be solely responsible for their safe and appropriate removal and/or disposal. Where requested by the Buyer, the Seller may, at its discretion arrange for the removal or collection of pallets and/or packaging. Any such service shall be subject to an additional charge payable by the Buyer.
- 8.8 All deliveries shall take place within four months of the Order being placed or two months from the Proposed Date of Delivery as stated in the Sales Order Acknowledgement, whichever is earlier; otherwise, the Buyer agrees to pay the Seller storage fees in respect of the Goods. Storage charges shall be calculated in accordance with clause 17.8.
- 8.9 In the case of vested orders, the Seller reserves the right to adjust the delivery charges in line with pricing on the Actual Date of Delivery.
- 8.10 The Buyer shall be deemed to have accepted the Goods as being in accordance with the Order unless, within 7 days for United Kingdom ("UK") business or within 14 days for export business outside of UK, from the Actual Date of Delivery the Buyer has notified the Seller otherwise. Any items to be returned must be pre-agreed and will be inspected on receipt by the Seller to ensure that they are in a saleable condition before any credit is issued. Returns must be within 90 days of the Actual Date of Delivery. Installation of the Goods shall constitute acceptance by the Buyer that the Goods were free from any reasonably discoverable defect at the time of installation. This clause does not limit any rights under clause 15 for a latent defect which could not reasonably have been identified within the applicable inspection period.
- 8.11 If the Buyer fails or is unable to take or accept delivery or collection of any Goods on the Proposed Date of Delivery, other than as a result of the Seller's breach of Contract:
 - 8.11.1 delivery shall be deemed to have taken place on the Proposed Date of Delivery;
 - 8.11.2 risk in the Goods shall pass to the Buyer on the Proposed Date of Delivery;
 - 8.11.3 the Seller may invoice the Goods and the applicable payment period shall commence notwithstanding that physical delivery or collection has not occurred;
 - 8.11.4 the Seller may store the Goods at the Buyer's risk and expense and charge storage in accordance with clause 17.8 together with all reasonable handling, transport, insurance and administration costs incurred; and

- 8.11.5 any Proposed Date of Delivery shall cease to apply and the Seller shall be entitled to determine a revised Proposed Date of Delivery subject to availability of transport, labour and manufacturing or warehouse capacity.
- 8.12 If the Buyer fails to take delivery within 60 days after the Proposed Date of Delivery, the Seller may, upon giving the Buyer not less than 14 days' written notice, resell, repurpose or otherwise dispose of the Goods where reasonably practicable. The Buyer shall remain liable for any shortfall between the Contract price and the net proceeds of disposal together with the Seller's reasonable costs of storage, handling and disposal.
- 8.13 The Seller shall not be required to retain or store Goods indefinitely pending the Buyer's readiness to accept delivery.

9. RETURNS POLICY

- 9.1 This clause applies only to returns of conforming Goods accepted by the Seller as a commercial concession and does not apply to a valid warranty claim under clause 15. All Goods to be returned must be:
- 9.1.1 pre-agreed in Writing with the Seller;
 - 9.1.2 an item contained on MyDek core product list;
 - 9.1.3 returned at the Buyer's cost;
 - 9.1.4 returned in a resaleable condition;
 - 9.1.5 returned in complete and original packaging;
 - 9.1.6 covered by a Return Material Authorisation number, issued by the Seller;
 - 9.1.7 returned within 90 days of the Actual Date of Delivery.
- 9.2 The Buyer agrees that a 15% restocking fee will be applied to and paid by the Buyer for all returned items.
- 9.3 Except where Goods are defective and the Buyer has a valid claim under clause 15, the Seller shall not be required to accept the cancellation or return of any Goods which are bespoke, fabricated, cut, machined, powder-coated or finished to order, manufactured to project-specific dimensions or specifications, specially sourced, non-stock or otherwise procured or manufactured specifically for the Buyer or its project.

10. QUANTITIES AND INSTALMENTS

- 10.1 Where Goods are delivered and/or Services are provided by instalments, each instalment shall be treated as a separate delivery and/or provision under the same Contract and the party in default in respect of any instalment shall be liable accordingly, but no default in respect of any one instalment shall affect due performance of the Contract as regards other instalments.
- 10.2 If Goods and/or Services are to be delivered in instalments the Seller shall be entitled to invoice each instalment as and when delivery and/or provision is made and payment for all delivered Goods and/or Services provided by instalments shall be due notwithstanding non-delivery and/or non-provision of other instalments or other default by the Seller. Failure by the Buyer to make payment by the due date for any one instalment for whatever reason shall entitle the Seller to suspend any future deliveries of the Goods and/ or provision of Services under the Contract but without prejudice to any other right the parties may have under any of the other provision of these Conditions.

11. SUSPENSION AND CANCELLATION

- 11.1 Cancellation of the Contract will only be accepted at the sole discretion of the Seller and unless otherwise agreed in Writing only upon condition that any costs, charges, damages or expenses (both direct and consequential) incurred by the Seller up to the date of cancellation by reason of such cancellation will be reimbursed by the Buyer to the Seller forthwith. Acceptance by the Seller of any cancellation by the Buyer will only be binding upon the Seller if it is made in Writing.
- 11.2 The Seller shall suspend the performance of the Contract on receipt of a request in Writing from the Buyer but shall only do so for a period not exceeding 28 days and the Buyer shall reimburse the Seller for all storage charges and other additional costs the Seller thereby incurs which costs shall be added to and form part of the price for the Goods and/or

Services. If such suspension shall continue for a period of more than 28 days, the Seller may terminate the Contract and the rights and liabilities of the parties shall be the same as if the Contract had been cancelled in accordance with the provisions of clause 11.1.

- 11.3 Without limiting any other right or remedy available to the Seller, the Seller may suspend performance of the Contract, suspend or cancel any outstanding delivery, withdraw or reduce any credit facility, require payment in advance or require satisfactory security for payment if:
- 11.3.1 the Buyer fails to pay any amount due to the Seller by its due date, whether under the Contract or any other contract between the Buyer and the Seller;
 - 11.3.2 the Buyer commits a material breach of the Contract or any other contract with the Seller;
 - 11.3.3 the Buyer becomes subject to, or the Seller reasonably believes that the Buyer is likely to become subject to, bankruptcy, administration, liquidation, receivership, a moratorium, an arrangement with creditors or any analogous insolvency process;
 - 11.3.4 any enforcement, execution or similar process is commenced against a material part of the Buyer's assets;
 - 11.3.5 the Buyer ceases, suspends or threatens to cease or suspend carrying on all or a substantial part of its business; or
 - 11.3.6 the Seller reasonably believes that the Buyer's financial position has deteriorated such that the Buyer's ability to pay amounts due to the Seller is materially at risk, including where any credit insurance applicable to the Buyer is withdrawn, reduced or materially restricted.
- 11.4 Where the Seller exercises any right under clause 11.3, the Seller shall have no liability for any resulting delay, suspension, non-delivery, project disruption or other loss suffered by the Buyer.
- 11.5 Upon the occurrence of any event specified in clause 11.3, all sums invoiced or otherwise accrued and payable to the Seller under the Contract or any other contract with the Buyer shall, to the extent permitted by law, become immediately due and payable.

12. TERMS OF PAYMENT

- 12.1 Unless otherwise stated in the Order and in Writing by MyDek's Finance Director, the Buyer shall pay a deposit of 20% of the total Order value within 14 days of placing the Order. Payment shall be made to the bank account nominated in Writing by the Seller. Time for payment is of the essence. The balance of the total Order value shall be paid by the Buyer to the Seller within 30 days of the date of invoice.
- 12.2 No payments shall be deemed to have been received until the Seller has received cleared funds into their bank account. All payments payable to the Seller under the Contract shall become due immediately on termination of this Contract notwithstanding any other provision to the contrary.
- 12.3 The Buyer shall make all payments due under the Contract in full without any deduction, withholding, counterclaim or set-off, except where required by law. The existence of any dispute or claim by the Buyer shall not entitle the Buyer to withhold payment of any undisputed amount.
- 12.4 If the Buyer fails to pay any sum when due, interest shall accrue on that sum from the due date until payment at a rate of 6% per annum above the Bank of England base rate from time to time, calculated daily, whether before or after judgment.
- 12.5 Where permitted by law, payments made using a commercial or corporate card may be subject to a charge not exceeding the Seller's reasonable cost of processing that payment.
- 12.6 The Seller may apply or appropriate any payment received from the Buyer against such invoice, debt, Contract or other amount owing by the Buyer to the Seller as the Seller determines, notwithstanding any purported appropriation, allocation or instruction by the Buyer.
- 12.7 Where the Contract includes Services, unless otherwise expressly agreed in Writing, all sums due in respect of such Services shall be paid in cleared funds before commencement of the Services.

13. INSTALLATION AND/OR PROVISION OF SERVICES

- 13.1 When the Contract provides for actual installation by the Seller and/or provision of Services, the Seller will supply the personnel and hand tools expressly included within the Seller's quotation. Any layouts, calculations, technical drawings, details or recommendations supplied by the Seller are provided for design-assist and informational purposes only and do not constitute architectural, engineering or professional design services unless previously expressly agreed in Writing. The Seller shall not be deemed to act as Architect, Engineer, Principal Designer, Building Regulations Principal Designer, Lead Designer, Design Consultant or other Dutyholder under the Building Safety Act 2022, CDM Regulations or Building Regulations unless separately appointed under a written professional appointment executed by a Director of the Seller.
- 13.2 Where installation services or Services are to be provided under Condition 13.1. unless otherwise agreed the Buyer will be responsible and accepts full liability for:
- 13.2.1 all necessary preparation of the site including all work to buildings, foundations, supporting structures, fixing points, substrate suitability, structural adequacy, waterproofing interfaces and coordination with other trades. For the avoidance of doubt, the Seller shall not be responsible for wider project design, waterproofing performance, substrate suitability, third-party works, coordination between trades or overall building/system performance;
 - 13.2.2 the proper unloading, safe-keeping and insurance of the Goods from the time of delivery;
 - 13.2.3 the provision of scaffolding, lifting, access, sequencing, temporary works and any other equipment (excluding tools) and all services required to safely install or operate the Goods or provide the Services;
 - 13.2.4 any delays, damages, disruption, contractor costs, preliminaries, professional fees, redesign or abortive works except to the extent directly caused by the Seller's proven breach of Contract;
 - 13.2.5 any work, revised calculations or layouts, amended specifications, revised compliance requirements or additional design coordination, whether preparatory to installation or provision of the Services or in the installation or provision itself not specifically included in the Seller's quotation;
 - 13.2.6 providing the Seller with access to and possession of the site at such time and in such state as may enable it to complete the installation or provision of the Services within any agreed time limit; and
 - 13.2.7 ensuring that all calculations, layouts, drawings, technical recommendations, specifications and design-assist information supplied by the Seller are independently reviewed, verified and approved in writing by the Buyer's appointed structural engineer, design team and any other professional advisers responsible for the project prior to manufacture, procurement, construction or installation of the Goods. The Buyer acknowledges that no reliance shall be placed upon such information unless and until such review, verification and written approval has been obtained. The Seller shall be entitled to rely upon such written approval as confirmation that the Buyer has accepted the suitability of the Goods, the layouts, calculations, dimensions, quantities, interfaces, fixing arrangements, loadings and project assumptions for the intended application. For the avoidance of doubt, the Seller shall be entitled to rely upon all information, dimensions, specifications, loadings and project details supplied by or on behalf of the Buyer without independent verification and shall have no liability for any errors, omissions or inaccuracies contained therein or for any matters which would reasonably have been identified during the Buyer's review and approval.
- 13.3 If the Buyer fails to provide all or any of the things referred to in Clause 13.2 when the Seller reasonably requires them or to its reasonable satisfaction, then having given the Buyer a reasonable opportunity to remedy such failure the Seller may at its discretion and as its sole option arrange for the provision of such item or items as it may require and such expenses as may be incurred in providing such item or items shall be payable by the Buyer on demand. The Seller reserves the right to charge for any redesigns, revised calculations, reissued drawings, site visits or meetings attended as a result of project changes.
- 13.4 The Buyer represents and warrants:
- 13.4.1 that where the Goods are to be installed and/or the Services are to be performed or at the premises of any third party it has full and proper authority for the Seller to enter the premises of that third party to install the Goods

and/or perform the Services and undertakes with the Seller to inform it forthwith in the event of any suspension or termination of that authority.

- 13.4.2 that it has taken all reasonable precautions to procure that all areas in which the Seller is performing the Services are safe and without risk to health.
- 13.4.3 that it has made such enquiries as are reasonable to ensure that all areas in which the Seller is performing the Services are free from latent defects and agrees to fully indemnify the Seller against all and any claims which arise from any subsequent discovery of a latent defect on such area.
- 13.5 The Services shall be deemed complete upon completion of the installation of the Goods or performance of the Services described in the Seller's quotation, or upon practical completion of the Seller's scope of works, whichever occurs first.
- 13.6 Attendance by the Seller at site, whether for meetings, inspections, observations, technical assistance or otherwise, shall not constitute supervision of the works, certification, inspection, approval of workmanship or acceptance of responsibility for the installation, sequencing or performance of the Goods unless expressly agreed in writing by the Seller.
- 13.7 When the Contract does not provide for the installation to be carried out by the Seller, the Seller shall not be liable for incorrect or non-compliant installation, third party workmanship, sequencing, interface failures, waterproofing damage, substrate defects, project integration, damage to goods (including the Goods) or any other penalties, charges or damages that may arise from the installation.

14. ADDITIONAL GOODS/SERVICES

Where the Buyer requires goods and/or services to be provided in addition to those set out in the Contract as a part of the Contract, the Buyer shall issue a written updated Order and upon the Seller issuing a revised Sales Order Acknowledgement, these Conditions shall apply to such additional Goods and/or Services.

15. WARRANTY

- 15.1 The Seller shall make good by replacement or, at its option repair, any failure (fair wear and tear excepted) in the Goods and/or Services which under conditions of proper use and maintenance, results from defects in the Seller's manufacture, materials or workmanship only and which appears not later than 12 months after the Actual Date of Delivery or after the date on which the provision of the Services is completed. Services are provided with reasonable skill and care only and with no fitness for purpose warranty. The Buyer's remedy is limited to repair, replacement or credit/refund at the Seller's option and expressly excludes labour, removal, access and reinstatement.
- 15.2 Notwithstanding the provisions of clause 15.1, in the case of a claim falling within Condition 15.1. the Seller reserves the right at its sole discretion to credit the Buyer in full the prices paid by the Buyer to the Seller.
- 15.3 The Seller's liability under this clause 15 shall automatically cease if:
 - 15.3.1 the Buyer shall not have paid for all Goods supplied and/or Services provided under any Contract by the due date or is otherwise in breach of this or any contract made with the Seller;
 - 15.3.2 the Seller or its servants or agents are denied full and free right of access to the allegedly defective Goods and/or Services or the Buyer has not properly maintained the Goods;
 - 15.3.3 the defect or failure is caused by wilful damage, dirt, neglect, misuse, accident or abnormal working conditions or continued use after a defect has become apparent;
 - 15.3.4 the defect or failure is caused by wear and tear;
 - 15.3.5 the Buyer has failed to notify the Seller in Writing of any defect or suspected defect within 30 days of the same coming to the knowledge of the Buyer;
 - 15.3.6 such defect or failure arises as a result of any inaccurate or incomplete information or details supplied by the Buyer or in any defect or inaccuracy in any patterns, equipment or other property of the Buyer;

- 15.3.7 the defect or failure arises as a result of the Buyer or end users increasing the load on top of the decking beyond what was included in the original specification as set out on the Sales Order Acknowledgement; or
- 15.3.8 the defect or failure is caused by third-party installation, substrate movement, waterproofing failure, interface detailing, contamination, maintenance failures.
- 15.4 The Seller does not warrant Building Regulation compliance, Building Safety Regulator approval, project-specific compliance, fire strategy compliance or slip compliance unless otherwise expressly agreed in Writing. No claim shall arise where Goods have been installed before inspection by the Buyer.
- 15.5 The Buyer shall take all reasonable steps to mitigate any loss arising from any alleged defect and shall immediately cease installation of any Goods which it reasonably believes may be defective and promptly notify the Seller of the same shall not remove, alter, repair or replace any allegedly defective Goods until the Seller has been given a reasonable opportunity to inspect them unless immediate removal is required for health and safety reasons.
- 15.6 Except as expressly set out in these Conditions, the Seller gives no warranty, representation or undertaking, whether express or implied by statute, common law or otherwise, regarding the suitability, compatibility, performance or fitness for purpose of the Goods, Services, calculations, layouts, drawings, technical information or recommendations or design-assist information supplied by it for any particular project, application or intended outcome, approval, certification, regulatory acceptance. Any layouts, calculations, drawings, technical details, specifications, recommendations or other design-assist information supplied by the Seller are provided using reasonable skill and care only for informational and design-assist purposes and do not constitute architectural, engineering or other professional design services unless expressly agreed by the Seller in Writing under a separate professional appointment.
- 15.7 The Buyer acknowledges and agrees that:
 - 15.7.1 Responsibility for the overall project design, coordination, structural adequacy, substrate suitability, waterproofing integration, fire compliance, slip resistance, Building Regulations compliance, Building Safety Regulator compliance, project-specific compliance and overall building or system performance remains with the Buyer and its appointed professional advisers and contractors;
 - 15.7.2 The Seller shall not be responsible and shall have no liability for any loss, damage, defect, delay or failure arising from or in connection with:
 - (a) inaccurate, incomplete or amended project information supplied by others;
 - (b) third-party design, specification or installation;
 - (c) substrate defects or movement;
 - (d) waterproofing failure or interface detailing;
 - (e) project sequencing or coordination;
 - (f) contamination, misuse, inadequate maintenance or abnormal conditions;
 - (g) the incorporation or integration of the Goods into the wider project or building system: or
 - (h) incompatibility between the Goods and products, systems or components supplied by third parties unless expressly confirmed by the Seller in writing;
 - 15.7.3 product selection forms part of the overall project design and remains the responsibility of the Buyer and its appointed professional advisers.
- 15.8 Nothing in these Conditions shall exclude or limit liability to the extent that it cannot lawfully be excluded or limited, including liability for:
 - 15.6.1 death or personal injury caused by negligence;
 - 15.6.2 fraud or fraudulent misrepresentation;

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

15.6.4 any other liability which cannot lawfully be excluded or limited.

15.9 Where the Buyer deals as a consumer, nothing in these Conditions shall affect the Buyer's statutory rights.

15.10 Subject to clause 15.6, the Seller's total aggregate liability arising out of or in connection with the Contract, whether in contract, tort including negligence, breach of statutory duty, misrepresentation or otherwise, shall not exceed the price paid or payable for the Goods or Services giving rise to the claim.

15.11 The remedies set out in clause 15 shall be the Buyer's sole and exclusive remedies in respect of any defect, failure or non-conformity in the Goods and/or Services.

15.12 Subject to clause 15.6, the Seller shall not be liable for any:

15.12.1 indirect, consequential, special or incidental loss or damage;

15.12.2 loss of profit, loss of revenue, loss of business, loss of opportunity, loss of anticipated savings or loss of goodwill;

15.12.3 project delay costs, disruption costs, liquidated damages, contractual penalties or employer claims;

15.12.4 redesign costs, professional fees, consultant fees, management costs or administrative costs;

15.12.5 removal costs, reinstallation costs, remedial works costs, access costs, scaffold costs, craneage costs, lifting costs or temporary works costs;

15.12.6 costs arising from third-party claims, third-party workmanship, third-party design or third-party installation;

15.12.7 costs arising from the integration of the Goods into any wider project, structure, system or building; or

15.12.8 costs or other losses arising from inaccurate, incomplete or amended information supplied by or on behalf of the Buyer.

15.12.9 costs of removing, accessing, transporting, installing or reinstating any Goods, including any replacement Goods;

15.12.10 additional costs of obtaining substitute or alternative products;

15.12.11 redesign or professional costs arising from the repair, replacement or substitution of the Goods.

15.13 Any attendance at site, investigation, technical assistance, replacement Goods, repair, discount, financial contribution or other action taken by the Seller whether on a goodwill basis or otherwise shall not constitute an admission of liability nor vary these Conditions unless expressly stated in Writing by a Director of the Seller.

15.14 Any defect, shortage, damage or non-conformity affecting only part of the Goods shall not entitle the Buyer to reject any Goods which are not themselves affected, terminate the Contract as a whole or withhold payment in respect of unaffected Goods. Any remedy available to the Buyer shall, subject to the other provisions of these Conditions, be limited to the Goods actually affected.

15.15 Notwithstanding clause 15.1, certain Goods supplied by the Seller may benefit from a separate extended product warranty, including a warranty period of up to 30 years, where expressly offered by the Seller in Writing. Any such warranty shall apply only to the Goods expressly identified as covered and shall be subject to the terms, conditions, exclusions, limitations, notification requirements and remedies set out in the applicable product warranty document.

15.16 Any extended product warranty shall operate in addition to the standard warranty provided under clause 15.1 and shall not replace or otherwise affect these Conditions, except to the extent expressly stated in the applicable extended product warranty. Where the extended product warranty expressly provides different warranty periods, coverage, claims procedures or remedies, those provisions shall prevail solely in respect of claims made under that extended product warranty. All other provisions of these Conditions, including the limitations and exclusions of liability, shall continue to apply to the extent consistent with the express terms of the extended product warranty and applicable law.

15.17 The provision of an extended product warranty shall not constitute a warranty or guarantee of the suitability of the Goods for any particular project, application or purpose, or of compliance with any project-specific design, regulatory or performance requirements, except to the extent expressly stated in that warranty.

15.18 Unless expressly stated otherwise in the applicable extended product warranty, the Seller shall not be responsible for the costs of accessing, removing, transporting, reinstalling or replacing surrounding materials or for associated labour, plant, equipment, professional fees or consequential project costs arising from a warranty claim.

16. GOODS AND MATERIALS MANUFACTURED BY THIRD PARTIES

16.1 Where Goods supplied under the Contract are manufactured by or sourced from a third party and are delivered directly to the Buyer, or collected by or on behalf of the Buyer from the manufacturer or supplier, such delivery or collection shall constitute delivery for the purposes of the Contract for the purposes of clause 8. The use of a third-party manufacturer, supplier or direct-delivery arrangement shall not of itself create any contractual relationship between the Buyer and that third party.

16.2 Where Goods are delivered directly by a third party or collected by or on behalf of the Buyer, the Buyer acknowledges that the Seller has had no reasonable opportunity to inspect, quality check, verify quantities, inspect packaging or otherwise examine the Goods prior to delivery or collection. The Buyer shall inspect such Goods promptly upon delivery or collection and notify the Seller in accordance with clause 8.9 of any shortage, damage or non-conformity reasonably discoverable on inspection.

16.3 Where Goods are collected by or on behalf of the Buyer, the Buyer shall be solely responsible for ensuring that the correct Goods are collected. Any shortage, over-collection, incorrect collection or collection of Goods intended for another customer shall remain the responsibility of the Buyer and the Buyer shall immediately pay the Seller for any additional Goods collected or losses incurred.

16.4 Where packaging, wrapping, palletisation, labelling or loading is undertaken by a third-party manufacturer or supplier, the Seller shall not be responsible for any defect, damage or loss arising solely from such activities to the extent that the relevant arrangements were specified, controlled or undertaken by or on behalf of the Buyer, including where collection is arranged by the Buyer. Where such arrangements are made by the Seller as part of the Contract, the Seller's liability in respect of the Goods shall remain subject to the warranty provisions and limitations and exclusions of liability set out in clause 15.

16.5 The Buyer acknowledges that delivery notes, packaging, labels or other documentation may identify the third-party manufacturer or supplier. Such identification shall not create any contractual relationship between the Buyer and that third party nor affect the Contract between the Buyer and the Seller.

16.6 The Buyer shall not, during the Contract or for 12 months following the final delivery under it, knowingly use confidential supplier identity, contact or pricing information disclosed solely through direct delivery or collection to circumvent the Seller in procuring substantially equivalent Goods for the same project or a directly related continuation of it.

16.7 Where Goods are manufactured by a third party, the Seller shall, where legally and commercially able to do so, pass to the Buyer the benefit of any manufacturer's warranty applicable to those Goods. Any manufacturer's warranty shall be subject to the manufacturer's own terms, conditions, limitations, exclusions and warranty period. For the avoidance of doubt, any manufacturer's warranty is separate from the Seller's obligations under clause 15 and the Seller gives no warranty in respect of third-party manufactured Goods beyond the warranties expressly set out in these Conditions.

16.8 Where Goods are delivered directly from a third-party manufacturer or supplier at the Buyer's request or for the Buyer's convenience, the Buyer accepts that the Seller is acting solely as supplier under the Contract and shall not assume any additional responsibility arising solely from the method of delivery.

17. TITLE TO GOODS

17.1 Until cleared payment in full of all monies due and owing by the Buyer to the Seller has been received:

17.1.1 full legal and beneficial ownership of the Goods shall be retained by the Seller notwithstanding that the risk in the same shall pass to the Buyer at the time of delivery; and

- 17.1.2 the Buyer shall hold the Goods supplied in a fiduciary capacity and as bailee of the Seller and shall at all times take proper care of the same and will not obliterate any identifying mark on the Goods or their packaging and will keep the Goods separate from any other goods and in such manner that they may be clearly identified as belonging to the Seller.
- 17.2 Subject to clause 17.1, the Buyer shall be at liberty to sell the Goods supplied in trust to pay to the Seller such sums to which it is entitled under the provisions of the Contract provided that the sums due to the Seller shall be kept separate from any monies of the Buyer and/ or any third party. Notwithstanding the provisions of this clause 17.2., the Buyer may retain from the proceeds of such sale any sum in excess of the sum or sums to which the Seller is entitled under the contract or any other Contract between the Seller and the Buyer. The Buyer grants the Seller, its employees and agents an irrevocable licence to enter any premises where the Goods are stored, during normal business hours and upon reasonable notice, to inspect or recover Goods in which title remains with the Seller.
- 17.3 The Seller may at any time revoke the Buyer's conditional power of sale contained in clause 17.2 by giving 24 hours' prior notice in the event of the Buyer being in default for longer than 14 days in the payment of any sum whatsoever due to the Seller from the Buyer (whether in respect of the Goods and/or Services which are the subject of the Contract or in respect of any other contract between the Seller and the Buyer) or if the Seller has bona fide doubts as to the solvency of the Buyer.
- 17.4 The Buyer's conditional power of sale contained in clause 17.2 shall automatically cease if:
- 17.4.1 a receiver or administrative receiver is appointed over the whole or any part of the assets or the undertaking of the Buyer or a winding up order is made against the Buyer or the Buyer goes into voluntary liquidation (except solely for the purpose of reconstruction or amalgamation) or calls a meeting or makes any arrangement with its creditors or becomes subject to an administration order or commits any act of bankruptcy; or
- 17.4.2 the Buyer pledges or in any way charges by way of security for indebtedness the whole or any part of the Goods.
- 17.5 Should the Contract require the installation of the Goods at or in the premises of any third party, the Buyer shall notify the third party before installation begins of the terms of this clause 17 and obtain the acknowledgement in Writing of the third party (sending a copy thereof to the Seller) that the third party has noted the terms of this clause 17 and concedes the rights of the Seller under it as if the Contract were made by the third party directly with the Seller.
- 17.6 The Seller will have the right to maintain an action against the Buyer for the price of the Goods notwithstanding that property in the Goods has not passed.
- 17.7 In the event of the Buyer or the Seller requesting that the Seller vests the goods, vesting shall occur only when the relevant Goods have been identified and allocated to the Contract, the Seller has received payment for them in cleared funds and the Seller has issued a vesting certificate identifying those Goods. Risk shall pass as stated in the vesting certificate.
- 17.8 The Seller can offer vesting storage free of charge for four weeks. After that time the storage fees will be applied. If goods are vested the charge will be 0.2% of the saleable value per week. If the goods are not vested and are in general storage, the fee will be 0.5% of the saleable value per week.
- 17.9 In the event of the Goods being vested by the Seller, the Buyer must carry out any vesting visits at least 7 days prior to the payment date to enable the Buyer to have time internally to process the payment by the payment date with the intent of issuing full payment within the specified payment term. If the Buyer is unable to make a vesting visit within the time frame above, acceptance of the vested Goods and payment will be made by the Buyer within the payment terms. A batch photograph can be requested in lieu of a visit, and payment will be due within the payment terms. Please see the Seller's Vesting Certificate document available on request for full details.

18. DESIGN ASSISTANCE, TECHNICAL INFORMATION AND PROJECT RESPONSIBILITY & LIABILITY

- 18.1 The Seller may provide layouts, calculations, drawings, technical details, specifications, recommendations, surveys, quantity take-offs, design assistance and other technical information in connection with the Goods and/or Services.
- 18.2 Any layouts, calculations, drawings, technical details, specifications, recommendations, surveys, quantity take-offs, Design Assist or other technical information supplied by the Seller are provided using reasonable skill and care only for design-

assist and informational purposes and shall not constitute architectural, engineering, lead designer, principal designer or other professional design services unless expressly agreed by the Seller in writing under a separate Written agreement and the Buyer does not rely as such on the same.

18.2.1 The Buyer acknowledges that:

- (a) Design Assist services are ancillary to the supply of Goods and shall not give rise to responsibility for the overall project design, coordination or regulatory compliance beyond the Seller's expressly agreed scope under the Contract;
- (b) Any comments, recommendations or opinions provided by the Seller based solely upon photographs, videos or other information supplied remotely are provided without site inspection and are based entirely upon the information made available and accordingly, in addition to any other applicable exclusions under these Conditions, the Seller shall have no liability for matters not reasonably identifiable from such information.
- (c) Fire classifications, reaction to fire reports, resistance testing and similar documentation apply only to the tested configuration and shall not apply where products, fixings, supporting structures or installation methods differ; and
- (d) Any test reports, assessments, classifications, certifications or technical documentation supplied by the Seller relate only to the specific product, configuration and test conditions stated within those documents and shall not be interpreted as certification or approval of the Buyer's particular project unless expressly stated in Writing.

18.3 The Buyer agrees and acknowledges that responsibility for and all liability in respect of:

- 18.3.1 overall project design;
- 18.3.2 structural adequacy;
- 18.3.3 Building Regulations compliance;
- 18.3.4 Building Safety Regulator compliance;
- 18.3.5 fire compliance;
- 18.3.6 slip resistance requirements;
- 18.3.7 waterproofing design and performance;
- 18.3.8 substrate suitability;
- 18.3.9 coordination between trades;
- 18.3.10 integration of the Goods into the wider project; and
- 18.3.11 overall building or system performance,

shall remain with the Buyer and/or its appointed architects, structural engineers, contractors and professional advisers.

18.4 The Seller does not review, approve or accept responsibility for third-party designs, specifications, calculations, drawings or works and any comments provided by the Seller in relation to such matters shall be deemed observations only and shall not constitute approval or acceptance of responsibility. All calculations are prepared using the assumptions, limitations and project information identified within the relevant calculation package.

18.5 Following written approval by the Buyer of any drawings, calculations, layouts, specifications, quantities or technical submissions, the Seller shall be entitled to rely upon such approval and shall have no liability for any matter that would reasonably have been identified upon review of the approved documents. Such approval shall constitute confirmation that the Buyer has reviewed and accepted the assumptions, dimensions, layouts, fixing arrangements, quantities, interfaces, loading assumptions and suitability of the Goods for the project.

- 18.6 Any revisions to layouts, calculations, drawings, specifications, quantities, loadings or technical information resulting from changes to project requirements, design development, regulatory requirements, Building Safety Regulator requirements, customer instructions or information supplied by others shall constitute a variation and the Seller reserves the right to charge for such additional work and revise lead times accordingly.
- 18.7 Unless expressly stated otherwise, all quotations, drawings, calculations and recommendations are based upon the assumptions identified in the Seller's quotation. Where any assumption subsequently changes, the Seller reserves the right to revise its recommendations, calculations, pricing, programme and product selection.
- 18.8 Where the Seller suggests one product as an alternative to another product, manufacturer or specification, such suggestion shall constitute a commercial recommendation only and shall not constitute a warranty that the alternative product is suitable for the Buyer's project. The Buyer remains solely responsible for satisfying itself, through its appointed professional advisers, that the selected product is appropriate for the intended application and complies with all project requirements.
- 18.9 Any technical information supplied is based upon legislation, guidance and standards applicable at the date of issue. The Seller accepts no responsibility for subsequent legislative or regulatory changes.

19. RISK AND INSURANCE

- 19.1 Save in the case of vested Goods, risk in the Goods shall pass to the Buyer upon delivery as determined under these Conditions. Risk in Services shall remain with the party responsible for the relevant property, works or site to which the Services relate.
- 19.2 Until title in the Goods has passed to the Buyer in accordance with clause 17, the Buyer shall keep the Goods adequately insured for their full replacement value against all usual risks with a reputable insurer. The Buyer shall, where reasonably practicable, procure that the Seller's interest in the Goods is noted on the relevant insurance policy and shall provide evidence of such insurance to the Seller upon request. If the Goods are lost, damaged or destroyed before title passes, the Buyer shall hold any insurance proceeds relating to the Goods on trust for the Seller and shall pay such proceeds to the Seller to the extent of any sums then due to the Seller.
- 19.3 The Buyer is responsible for obtaining appropriate project insurance and all consequential project risk.

20. HEALTH AND SAFETY AT WORK (ETC.) ACT 1974

The attention of the Buyer is drawn to the provisions of section 6 Health and Safety at Work (Etc.) Act 1974. The Seller will make available upon request information on the design, construction and installation of its products to ensure that, as far as is reasonably practicable, they are safe and without risk to health. It is the responsibility of the Buyer to take such steps as are necessary to ensure that such information relevant to the Goods which is appropriate is made available to its servants, agents or any person to whom the Buyer supplies the Goods and to any other person to whom the Buyer reasonably considers any such information should be given.

21. FORCE MAJURE

The Seller reserves the right to defer the Proposed Date of Delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, floods, pandemic or epidemic, radioactivity, lock-outs, strikes or other labour disputes, shortage or unavailability of raw materials or components, failure or delay of any manufacturer or supplier caused by circumstances beyond the Seller's reasonable control, shipping or freight disruption, port congestion or closure, interruption of transport, import or export restrictions, embargoes, sanctions, tariffs, shortages of fuel or energy, interruption of utilities, machinery or equipment breakdown not caused by the Seller's failure to maintain the same, cyber incidents affecting the Seller or its material suppliers, or any material disruption to the Seller's supply chain beyond its reasonable control provided that, if the event in question continues for a continuous period in excess of 60 days, the Buyer shall be entitled to give notice in writing to the Seller to terminate the Contract.

22. SUSTAINABILITY

The Seller is working towards making all of its products more sustainable and therefore some products are purchased using Green Aluminium Billet. As the Seller is supplied by multiple third parties it cannot certify that the Goods have been manufactured using exclusively Green Aluminium Billet unless that was expressly agreed in advance, costed in and set out explicitly on the Sales Order acknowledgement. The detail of the certificate will be based on the detail provided by the billet providers and the Seller is not able to offer any additional traceability. Once the Seller has provided the Sales Order Acknowledgement it will not be able to change the product certified to using Green Aluminium Billet, unless expressly agreed in Writing by the MyDek Finance Director.

23. GENERAL

- 23.1 If at any time any one or more of the provisions, or part thereof, these Conditions becomes or is invalid, illegal or unenforceable in any respect under any law or is held by a court to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
- 23.2 These Conditions and each and every Contract made pursuant to them shall be governed by and construed in all respects in accordance with the laws of England and Wales and the Seller and the Buyer hereby agree to submit to the exclusive jurisdiction of the English courts.
- 23.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party or its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 23.4 Design Assist advice provided by email, telephone, Teams meetings, site meetings or other informal communications shall constitute technical assistance only and shall not amend the Contract unless confirmed in Writing and signed by a Director of both parties.
- 23.5 No waiver by the Seller or any breach of any provision of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision and the Seller shall not be prejudiced by any forbearance or indulgence granted by it to the Buyer.
- 23.6 These Conditions, the Sales Order Acknowledgement and any documents expressly incorporated into them constitute the entire agreement between the parties in relation to the Contract. Each party acknowledges that it has not relied upon any statement, representation, assurance or warranty (whether made innocently or negligently) not expressly set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Conditions. Nothing in this clause shall limit or exclude liability for fraud or fraudulent misrepresentation.
- 23.7 Except as expressly provided in the Contract, a person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 23.8 The Buyer shall not assign, transfer, charge, subcontract or otherwise deal with any of its rights or obligations under the Contract without the Seller's prior Written consent. The Seller may assign, transfer or subcontract any of its rights or obligations under the Contract to any member of its group or to any manufacturer, supplier, installer or subcontractor engaged in connection with the Goods or Services, provided that such assignment or subcontracting shall not materially reduce the Buyer's contractual rights.