



the Customer enters into liquidation (whether voluntary or compulsory), or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof; or

E the Customer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under these Terms or any other contract between JXH and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or (c) the Customer encumbers or in any way charges any of the Products.

6.6 JXH shall be entitled to recover payment for any Products included within the Works notwithstanding that ownership of any Products included within the Works has not passed from JXH.

6.7 The Customer grants JXH, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

6.8 Where Fuse is unable to determine whether any Products included within the Works are the Products in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all Products of the kind sold by Fuse to the Customer in the order in which they were invoiced to the Customer.

## 7. PRICE AND PAYMENT

7.1 Unless otherwise agreed by Fuse in writing, the price for any Products included within the Works shall be the price set out in Amstore's Invoice.

7.2 The Price for any Products included within the Works shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Customer shall pay in addition when it is due to pay for any Products included within the Works.

7.3 The Customer shall pay 100% of the invoiced amount immediately upon receipt of Amstore's Order Confirmation (Unless otherwise a different payment terms is expressly agreed in writing with the company). Payment shall be made to the bank account nominated in writing by Fuse. Time for payment shall be of the essence.

7.4 No payment shall be deemed to have been received until Fuse has received cleared funds.

7.5 The Customer shall make all payments due under these Terms in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by JXH to the Customer.

7.6 If the Customer fails to pay JXH any sum due pursuant to these Terms, the Customer shall be liable to pay interest to JXH on such sum from the due date for payment at the annual rate of four (4) % above the base lending rate from time to time of HSBC Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment. JXH reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998. Further, JXH shall be entitled to suspend Delivery of any Orders that remain outstanding and to cancel any other Orders for as long as any sums due to JXH remain outstanding.

7.7 Unless JXH expressly agrees otherwise in writing, if the Customer cancels all or part of an order for Works once JXH has issued an Order Confirmation in respect thereof, JXH shall be entitled to retain the Deposit pertaining to such order by way of liquidated damages for breach by the Customer of the Contract. Retention of all or part of the Deposit shall be without prejudice Amstore's other legal rights or remedies in relation to such cancellation.

## 8. CONTENT STANDARDS

8.1 These content standards apply to any and all content material which the Customer provides to JXH for inclusion in any Products included within the Works.

8.2 All content must be accurate (where they state facts), be genuinely held (where they state opinions), comply with applicable law in the UK and in any country from which they are posted. The Customer warrants and represents that it has the necessary rights and authority to use, publish and share all of the images, music, data and material contained in the content.

8.3 All content must not contain any material which is defamatory of any person; contain any material which is obscene, offensive, hateful or inflammatory; promote sexually explicit material; promote violence; promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age; infringe any copyright, database right or trade mark of any other person; be likely to deceive any person; be made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence; promote any illegal activity; be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety; be likely to harass, upset, embarrass, alarm or annoy any other person; be used to impersonate any person, or to misrepresent the Customer's identity or affiliation with any person; give the impression that they emanate from JXH, if this is not the case; or advocate, promote or assist any unlawful act such as (by way of example only) copyright infringement or computer misuse.

## 9. QUALITY AND RETURNS

9.1 Where JXH is not the manufacturer of any Products included within the Works, JXH shall endeavour to transfer to the Customer the benefit of any warranty or guarantee given to JXH.

9.2 JXH warrants that (subject to the other provisions of these conditions) upon delivery, and for a period of three (3) months from the date of delivery, any Products included within the Works shall

D be of satisfactory quality within the meaning of the Sale of Products Act 1979; and

E be reasonably fit for any particular purpose for which any Products included within the Works are being bought if the Customer had made known that purpose to JXH in writing and JXH has confirmed in writing that it is reasonable for the Customer to rely on the skill and judgment of JXH.

9.3 JXH shall not be liable for a breach of any of the warranties in clause 9.2 unless

(a) the Customer gives written notice of the defect to Fuse, and, if the defect is as a result of damage in transit to the carrier, within five (5) days of the time when the Customer discovers or ought to have discovered the defect; and

(b) Fuse is given a reasonable opportunity after receiving the notice of examining such Products and the Customer (if asked to do so by Fuse) returns such Products to Amstore's place of business at the Company's cost for the examination to take place there.

9.4 Fuse shall not be liable for a breach of any of the warranties in clause 9.2 if

(a) the Customer makes any further use of such Products after giving such notice;

or (b) the defect arises because the Customer failed to follow Amstore's oral or written instructions as to the storage, installation, commissioning, use or maintenance of such Products or (if there are none) good trade practice;

or (c) the Customer alters or repairs the Products without the written consent of Fuse.

9.5 Subject to clause 9.3 and clause 9.4, if any of the Products do not conform with any of the warranties in clause 9.2 Fuse shall at its option repair or replace such Products (or the defective part) or refund the price of such Products at the pro rata rate provided that, if Fuse so requests, the Customer shall, at the Company's expense, return the Products or the part of such Products which is defective to Fuse.

9.6 If Fuse complies with clause 9.5 it shall have no further liability for a breach of any of the warranties in clause 9.2 in respect of such Products.

9.7 Any Products replaced shall belong to Fuse and any repaired or replacement Products shall be guaranteed on these terms for the unexpired portion of the three (3) month period.

## 10. LIMITATION OF LIABILITY

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

(a) any breach of these Terms;

(b) any use made or resale by the Customer of any of the Works, or of any products incorporating any of the Works; and

(c) any representation, statement or tortious act or omission including negligence arising under or in connection with these Terms.

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

10.3 Nothing in these clauses excludes or limits the liability of Fuse

(a) for death or personal injury caused by Amstore's negligence; or

(b) under section 2(3), Consumer Protection Act 1987; or

(c) for any matter which it would be illegal for Fuse to exclude or attempt to exclude its liability; or

(d) for fraud or fraudulent misrepresentation.

10.4 Subject to clause 10.2 and clause 10.3,

(a) Amstore's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of these Terms shall be limited to these Terms price; and

(b) Fuse shall not be liable to the Customer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for

consequential compensation whatsoever (howsoever caused) which arise out of or in connection with these Terms.

#### 11. INTELLECTUAL PROPERTY RIGHTS

All patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world (Intellectual Property Rights) and all other rights in the Works shall be owned by Fuse or its licensors, and remain vested in Fuse or its licensors. Fuse licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Works. Fuse and its licensors give no representation, warranty, assurance, or guarantee with respect to the infringement of any Intellectual Property Rights, any right of privacy, or any other rights of third persons in relation to the Works.

#### 12. CONFIDENTIALITY

12.1 Each party undertakes that it shall not at any time during these Terms and for a period of five (5) years after termination disclose to any person any confidential information disclosed to it by the other party concerning the business or affairs of the other party or of any member of its Group, including information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers (Confidential Information), except as permitted by clause 12.2.

12.2 Each party may disclose the other party's Confidential Information

(a) to its employees, officers, agents, consultants or subcontractors (Representatives) who need to know such information for the purposes of carrying out the party's obligations under these Terms, provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this clause 12 as though they were a party to these Terms. The disclosing party shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this clause; and

(b) as may be required by law, court order or any governmental or regulatory authority.

12.3 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in these Terms are granted to the other party or to be implied from these Terms. In particular, no licence is hereby granted directly or indirectly under any patent, invention, discovery, copyright or other intellectual property right held, made, obtained or licensable by either party now or in the future.

#### 13. ASSIGNMENT

13.1 Fuse may without consent or notice to the Customer sub-contract the Contract or any part of it to any person, firm or company whom it reasonably believes is capable of supplying the Works or part of thereof in accordance with the Order Confirmation.

13.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of Fuse.

#### 14. FORCE MAJEURE

Fuse reserves the right to defer the date of delivery or to cancel these Terms or reduce the volume of the Products ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Fuse including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of ninety (90) days, the Customer shall be entitled to give notice in writing to Fuse to terminate these Terms.

#### 15. COMMUNICATIONS

15.1 All communications between the parties about these Terms shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or sent by email to such address as shall be notified by the parties to each other.

15.2 Communications shall be deemed to have been received

(a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

(b) if delivered by hand, on the day of delivery; or

(c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day; or

(d) if sent by email, on the day of delivery.

#### 16. GENERAL

16.1 Each right or remedy of parties under these Terms is without prejudice to any other right or remedy of the parties whether under these Terms or not.

16.2 If any provision of these Terms is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of these Terms and the remainder of such provision shall continue in full force and effect.

16.3 Failure or delay by the parties in enforcing or partially enforcing any provision of these Terms shall not be construed as a waiver of any of its rights under these Terms.

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

16.5 These Terms and the documents referred to in it constitute the whole agreement and understanding of the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter of these Terms.

16.6 Each party acknowledges that, in entering into these Terms, it has not relied on any statement, representation, assurance or warranty (whether made negligently or innocently) other than those expressly set out in these Terms or the documents referred to in it.

16.7 Each party agrees that all liability for and remedies in respect of any representations are excluded except as expressly provided in these Terms.

16.8 Any variation of these Terms shall be in writing and signed by or on behalf of the parties.

16.9 The formation, existence, construction, performance, validity and all aspects of these Terms shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

16.10 Customer issued Content Masters for any Fuse works will only be kept for the duration of the project and will not be stored / archived thereafter.