

TERMS OF SALE

1 Interpretation

1.1 In these Terms:

"CLIENT" means the person who accepts the Company's Written quotation for the sale of the Goods or whose Written order for the Goods is accepted by the Company and the person named on the Specification Sheet for whom the Company has agreed to provide the Specified Service in accordance with these Terms;

"COMPANY" means Evitavonni Limited (registered in England and Wales under title number 5780945) whose registered office is 27 Station Road, Chobham, Surrey, GU24 8AQ;

"COMPANY'S STANDARD CHARGES" means the charges shown in the Company's brochure or other published literature relating to the Specified Service from time to time;

"CONTRACT" means the contract for the sale and purchase of the Goods and the provision of the Specified Service;

"DOCUMENT" includes, in addition to a document in Writing, a map, plan, design, drawing, picture or other image, or any other record of any information in any form;

"GOODS" means the goods (including any instalment of the goods or any parts for them) which the Company is to supply in accordance with these Terms;

"INCOTERMS" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made;

"INPUT MATERIAL" means any Documents or other materials, and any data or other information provided by the Client relating to the Specified Service;

"OUTPUT MATERIAL" means any Documents or other materials, and any data or other information provided by the Company relating to the Specified Service;

"SPECIFICATION SHEET" means the sheet to which these Terms are appended;

"SPECIFIED SERVICE" means the service to be provided by the Company for the Client and referred to in the Specification Sheet;

"TERMS" means the standard terms of sale set out in this document and (unless the context otherwise requires) includes any special terms agreed in Writing between the Client and the Company; and

"WRITING", and any similar expression, includes facsimile transmission electronic mail or other forms of electronic communication.

1.2 A reference in these Terms to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Terms are for convenience only and shall not affect their interpretation.

2 Basis of the Sale of Goods

2.1 The Company shall sell and the Client shall purchase the Goods in accordance with the Company's Written quotation (if accepted by the Client), or the Client's Written order (if accepted by the Company), subject in either case to these Terms, which shall govern the Contract to the exclusion of any other terms subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Client.

2.2 No variation to these Terms shall be binding unless agreed in Writing between the authorised representatives of the Client and the Company.

2.3 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in Writing. In entering into the Contract the Client acknowledges that it does not rely on any such representations which are not so confirmed, but nothing in these Terms affects the liability of either party for fraudulent misrepresentation.

2.4 Any advice or recommendation given by the Company or its employees or agents to the Client or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Company is followed or acted upon entirely at the Client's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

3 Supply of the Specified Service

3.1 The Company shall provide the Specified Service to the Client subject to these Terms. Any changes or additions to the Specified Service or these Terms must be agreed in Writing by the Company and the Client.

3.2 The Client shall at its own expense supply the Company with all necessary Documents or other materials, and all necessary data or other information relating to the Specified Service, within sufficient time to enable the Company to provide the Specified Service in accordance with the Contract. The Client shall ensure the accuracy of all Input Material.

3.3 The Client shall at its own expense retain duplicate copies of all Input Material and insure against its accidental loss or damage. The Company shall have no liability for any such loss or damage, however caused. All Output Material shall be at the sole risk of the Client from the time of delivery to or to the order of the Client.

3.4 The Specified Service shall be provided in accordance with the Specification Sheet and otherwise in accordance with the Company's current brochure or other published literature relating to the Specified Service from time to time, subject to these Terms.

3.5 Further details about the Specified Service, and advice or recommendations about its provision or utilisation, which are not given in the Company's brochure or other promotional literature, may be made available on Written request.

3.6 The Company may correct any typographical or other errors or omissions in any brochure, promotional literature, quotation or other document relating to the provision of the Specified Service without any liability to the Client.

3.7 The Company may at any time without notifying the Client make any changes to the Specified Service which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Specified Service.

4 Orders and Specifications

4.1 No order submitted by the Client shall be deemed to be accepted by the Company unless and until confirmed in Writing by the Company's authorised representative.

4.2 The Client shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Client, and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.

4.3 The quantity, quality and description of the Goods and any specification for them shall be as set out in the Company's quotation (if accepted by the Client) or the Client's order (if accepted by the Company).

4.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with a specification submitted by the Client, the Client shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with, or paid or agreed to be paid by the Company in settlement of, any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Company's use of the Client's specification.

4.5 The Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or E.U. requirements or, where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.

4.6 No order which has been accepted by the Company may be cancelled by the Client except with the agreement in Writing of the Company and on terms that the Client shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

5 Price of the Goods

5.1 The price of the Goods shall be the Company's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Company's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Company's published export price list shall apply. All prices quoted are valid for 30 days only or until earlier acceptance by the Client, after which time they may be altered by the Company without giving notice to the Client.

5.2 The Company reserves the right, by giving Written notice to the Client at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities

or specifications for the Goods which is requested by the Client, or any delay caused by any instructions of the Client or failure of the Client to give the Company adequate information or instructions.

5.3 Except as otherwise stated in the Company's Written quotation or in any price list of the Company, and unless otherwise agreed in Writing between the Client and the Company, all prices are given by the Company on an ex works basis, and where the Company agrees to deliver the Goods otherwise than at the Company's premises, the Client shall be liable to pay the Company's charges for transport, packaging and insurance.

5.4 The price is exclusive of any applicable value added tax, which the Client shall be additionally liable to pay to the Company.

5.5 The cost of pallets and returnable containers will be charged to the Client in addition to the price of the Goods, but full credit will be given to the Client provided they are returned undamaged to the Company before the due payment date.

6 Charges for the Supply of the Specified Service

6.1 Subject to any special terms agreed, the Client shall pay the Company's Standard Charges and any additional sums which are agreed between the Company and the Client for the provision of the Specified Service or which, in the Company's sole discretion, are required as a result of the Client's instructions or lack of instructions, the inaccuracy of any Input Material or any other cause attributable to the Client.

6.2 The Company shall be entitled to vary the Company's Standard Charges from time to time by giving not less than three months' Written notice to the Client.

6.3 All charges quoted to the Client for the provision of the Specified Service are exclusive of any Value Added Tax, for which the Client shall be additionally liable at the applicable rate from time to time.

7 Terms of payment

7.1 Subject to any special terms agreed in Writing between the Client and the Company, the Client shall make payment for the price of the Goods when the Client submits his order for the Goods to the Company. The Client shall make payment for the price of the Specified Service to the Company as follows:

7.1.1 where such Specified Service is for the supply and installation of bathroom or kitchen products payment shall be in instalments as follows:

7.1.1.1 25% of the price of the Specified Service on submission of an order by the Client;

7.1.1.2 70% of the price of the Specified Service at the start of the installation of the Specified Service; and

7.1.1.3 the balance of the price of the Specified Service on completion of the Specified Service.

7.1.2 any other Specified Service:

7.1.2.1 payment in full at the time of the placement of the order by the Client.

7.2 If the Client fails to make any payment on the due date then, without limiting any other right or remedy available to the Company, the Company may:

7.2.1 cancel the contract or suspend any further deliveries to the Client;

7.2.2 appropriate any payment made by the Client to such of the Goods (or the goods supplied under any other contract between the Client and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Client); and

7.2.3 charge the Client interest (both before and after any judgment) on the amount unpaid, at the rate of 2 per cent per annum above Barclay's Bank Plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

8 Delivery

8.1 Delivery of the Goods shall be made by the Client collecting the Goods at the Company's premises at any time after the Company has notified the Client that the Goods are ready for collection or, by the Company to the address specified by the Client on the completed order form or at the time of the completion of any installation of any product as set out in the Specification Sheet.

8.2 Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Company in Writing. The Goods may be delivered by the Company in advance of the quoted delivery date on giving reasonable notice to the Client.

8.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Terms or any claim by the Client in respect of any one or more instalments shall not entitle the Client to treat the Contract as a whole as repudiated.

8.4 If the Company fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Company's reasonable control or the Client's fault, and the Company is accordingly liable to the Client, the Company's liability shall be limited to the excess (if any) of the cost to the Client (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

8.5 If the Client fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Client's reasonable control or by reason of the Company's fault) then, without limiting any other right or remedy available to the Company, the Company may:

8.5.1 store the Goods until actual delivery and charge the Client for the reasonable costs (including insurance) of storage; or

8.5.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Client for the excess over the price under the Contract or charge the Client for any shortfall below the price under the Contract.

9 Risk and property

9.1 Risk of damage to or loss of the Goods shall pass to the Client :

9.1.1 in the case of Goods to be delivered at the Company's premises, at the time when the Company notifies the Client that the Goods are available for collection; or

9.1.2 in the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Client wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

9.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Terms, the property in the Goods shall not pass to the Client until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Company to the Client for which payment is then due.

9.3 Until such time as the property in the Goods passes to the Client, the Client shall hold the Goods as the Company's fiduciary agent and bailee, and shall keep the Goods separate from those of the Client and third parties and properly stored, protected and insured and identified as the Company's property, but the Client may resell or use the Goods in the ordinary course of its business.

9.4 Until such time as the property in the Goods passes to the Client (and provided the Goods are still in existence and have not been resold), the Company may at any time require the Client to deliver up the Goods to the Company and, if the Client fails to do so forthwith, enter on any premises of the Client or any third party where the Goods are stored and repossess the Goods.

9.5 The Client shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Client does so all moneys owing by the Client to the Company shall (without limiting any other right or remedy of the Company) forthwith become due and payable.

10 Rights in Input Material and Output Material

10.1 The property and any copyright or other intellectual property rights in:

10.1.1 any Input Material shall belong to the Client

10.1.2 any Output Material shall, unless otherwise agreed in Writing between the Client and the Company, belong to the Company, subject only to the right of the Client to use the Output Material for the purposes of utilising the Specified Service.

10.2 Any Input Material or other information provided by the Client which is so designated by the Client and any Output Material shall be kept confidential by the Company, and all Output Material or other information provided by the Company which is so designated by the Company shall be kept confidential by the Client; but the foregoing shall not apply to any Documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.

10.3 The Client warrants that any Input Material and its use by the Company for the purpose of providing the Specified Service will not infringe the copyright or other rights of any third party, and the Client shall indemnify the Company against any loss, damages, costs, expenses or other claims arising from any such infringement.

10.4 Subject to paragraph 10.3, the Company warrants that any Output Material and its use by the Client for the purposes of utilising the Specified Service will not infringe the copyright or other rights of any third party, and the Company shall indemnify the Client against any loss, damages, costs, expenses or other claims arising from any such infringement.

11 Warranties and Liability

11.1 Subject to the following provisions the Company warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of one month from the date of their initial use or one month from delivery, whichever is the first to expire.

11.2 The above warranty is given by the Company subject to the following conditions:

11.2.1 the Company shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Client;

11.2.2 the Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in Writing), misuse or alteration or repair of the Goods without the Company's approval;

11.2.3 the Company shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;

11.2.4 the above warranty does not extend to parts, materials or equipment not manufactured by the Company, in respect of which the Client shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company.

11.3 Subject as expressly provided in these Terms, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

11.4 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Client are not affected by these Terms.

11.5 A claim by the Client which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Client) be notified to the Company within seven days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Client does not notify the Company accordingly, the Client shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Client shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

11.6 Where a valid claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with these Terms, the Company may replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Client the price of the Goods (or a proportionate part of the price), in which case the Company shall have no further liability to the Client.

11.7 The Company warrants to the Client that the Specified Service will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Specification Sheet and at the intervals and within the times referred to in the Specification Sheet. Where the Company supplies in connection with the provision of the Specified Service any Goods (including Output Material) supplied by a third party, the Company does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Client the benefit of any warranty, guarantee or indemnity given by the person supplying the Goods to the Company.

11.8 The Company shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from any Input Material or instructions supplied by the Client which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Client.

11.9 Except in respect of death or personal injury caused by the Company's negligence, or liability for defective products under the Consumer Protection Act 1987 or as expressed in these Terms, the Company shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods (including any delay in supplying or any failure to supply the Goods in accordance with the Contract or at all) or their use or resale by the Client or the provision of the Specified Service or their use by the Client, and the entire liability of the Company under or in connection with the Contract shall not exceed the price of the Goods, including the amount of the Company's charges for the provision of the Specified Service where applicable except as expressly provided in these Terms.

11.10 The Company shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods and any of the Company's obligations in relation to the Specified Service if the delay or failure was due to any cause beyond the Company's reasonable control. Without limiting the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:

11.10.1 act of God, explosion, flood, tempest, fire or accident;

- 11.10.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 11.10.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 11.10.4 import or export regulations or embargoes;
- 11.10.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);
- 11.10.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 11.10.7 power failure or breakdown in machinery.

12 Indemnity

12.1 If a claim is made against the Client that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of a drawing, design or specification supplied by the Client, the Company shall indemnify the Client against all loss, damages, costs and expenses awarded against or incurred by the Client in connection with the claim, or paid or agreed to be paid by the Client in settlement of the claim, provided that:

- 12.1.1 the Company is given full control of any proceedings or negotiations in connection with the claim;
- 12.1.2 the Client shall give the Company all reasonable assistance for the purposes of any such proceedings or negotiations;
- 12.1.3 except pursuant to a final award, the Client shall not pay or accept the claim, or compromise any such proceedings without the consent of the Company (which shall not be unreasonably withheld);
- 12.1.4 the Client shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Client may have in relation to such infringement, and this indemnity shall not apply to the extent that the Client recovers any sums under any such policy or cover (which the Client shall use its best endeavours to do);
- 12.1.5 the Company shall be entitled to the benefit of, and the Client shall accordingly account to the Company for, all damages and costs (if any) awarded in favour of the Client which are payable by, or agreed with the consent of the Client (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
- 12.1.6 without limiting any duty of the Client at common law, the Company may require the Client to take such steps as the Company may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Company is liable to indemnify the Client under this clause.

13 Insolvency of Client

13.1 This clause 13 applies if:

- 13.1.1 the Client makes a composition or voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters administration or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or a moratorium comes into force in respect of the Client (within the meaning of the Insolvency Act 1986); or
- 13.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client; or
- 13.1.3 the Client ceases, or threatens to cease, to carry on business; or
- 13.1.4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.

13.2 If this clause applies then, without limiting any other right or remedy available to the Company, the Company may cancel the Contract or suspend any further deliveries under the Contract without any liability to the Client, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

14 Export terms

14.1 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Terms, but if there is any conflict between the provisions of Incoterms and these Terms, the latter shall prevail.

14.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 14 shall (subject to any special terms agreed in Writing between the Client and the Company) apply notwithstanding any other provision of these Terms.

14.3 The Client shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

14.4 Unless otherwise agreed in Writing between the Client and the Company, the Goods shall be delivered fob the air or sea port of shipment and the Company shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

14.5 The Client shall be responsible for arranging for testing and inspection of the Goods at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

14.6 Unless otherwise required by the Company, payment of all amounts due to the Company shall be made by irrevocable letter of credit, in a form acceptable to the Company, to be opened by the Client in favour of the Company and confirmed by a bank in the United Kingdom acceptable to the Company within 14 days after the Contract is concluded.

14.7 The Client shall not offer the Goods for resale in any country not agreed by the Company to the Client at or before the time the Client's order is placed, or sell the Goods to any person if the Client knows or has reason to believe that that person intends to resell the Goods in any such country.

15 General

15.1 A notice required or permitted to be given by either party to the other under these Terms shall be in Writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

15.2 These Conditions (together with the terms, if any, set out in the Specification Sheet) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in Writing between the parties. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

15.3 A notice required or permitted to be given by either party to the other under these Terms shall be in Writing addressed to the other party at 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.

15.4 No waiver by the Company of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.

15.5 If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

15.6 Any dispute arising under or in connection with the Contract or the sale of the Goods or the provision of the Specified Service shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the Institute of Chartered Accountants.

15.7 The Contract shall be governed by the laws of England, and the Client agrees to submit to the non-exclusive jurisdiction of the English courts.