

Product Focus Limited
Toolbox Terms and Conditions

1 Interpretation

1.1 The definitions and rules of interpretation in this clause apply in these Conditions and in any other agreement between the parties.

"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
"Charges"	the charges specified on the Product Focus website and in the Product Focus Toolbox ;
"Commencement Date"	the date of subscription to the Services;
"Conditions"	these terms and conditions as amended from time to time (in accordance with clause 25);
"Confidential Information"	all confidential information (however recorded or preserved) disclosed by a party or its Representatives to the other party and that party's Representatives in connection with the Contract, which is either labelled as such or else which should reasonably be considered as confidential because of its nature and the manner of its disclosure;
"Contract"	the contract between Product Focus and the Customer for the supply of Data and Services in accordance with these Conditions;
"Customer"	the person or firm who purchases Data and Services from Product Focus;
"Customer System"	any information technology system or systems owned or operated by the Customer from which Data is received in accordance with these Conditions;
"Customer User"	the employees of the Customer authorised by the Customer to access and use the Services;
"Customer User Requirements"	the obligations set out in clause 7;
"Data"	the data or information, in whatever form including images, still and moving, and sound recordings, the provision of which comprises the Services (wholly or in part);

"Derived Data"	any Editable Data (wholly or in part) Manipulated to such a degree that it: <ul style="list-style-type: none"> a) cannot be identified as originating or deriving directly from the Editable Data or the Services and cannot be reverse-engineered such that it can be so identified; and b) is not capable of use substantially as a substitute for the Editable Data or the Services;
"Distribute"	to make Data accessible (including the provision of access through a database or other application populated with the Data, reselling, sub-licensing, transferring or disclosing the Data) by any means, including any electronic means, to any Customer User;
"Editable Data"	Data which comprises tools, templates or checklists only;
"Good Industry Practice"	in relation to any undertaking and any circumstances, the exercise of skill, diligence, prudence, foresight and judgement and the making of any expenditure that would reasonably be expected from a skilled person engaged in the same type of undertaking under the same or similar circumstances;
"holding company" and "subsidiary"	mean a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006;
"Intellectual Property Rights"	all patents, rights to inventions, utility models, copyright and related rights, trade marks, 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 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;
"Licence"	the licence granted in clause 13;
"Manipulate"	to combine or aggregate the Editable Data (wholly or in part) with other data or information or to adapt the Editable Data (wholly or in part);

"Manipulated Data"	any Editable Data which has been Manipulated. Manipulated Data includes any Derived Data;
"Materials"	any hardware, Software or documents supplied by Product Focus under the Contract, including the materials referred to in clause 9.4;
"Normal Business Hours"	8.30 am to 6.00 pm GMT on a Business Day in the United Kingdom;
"Order"	the Customer's order for the Services made in the Product Focus Toolbox;
"Permitted Use"	internal business use (which shall not include the use of the Data or the Materials by, or for the benefit of, any person other than an employee of the Customer);
"Product Focus"	Product Focus Limited registered in England and Wales with company number 05858433;
"Release"	generally available upgrades and enhancements to the Data or Software;
"Representatives"	in respect of a party, that party's employees, officers, representatives, advisers or sub-contractors involved in the provision or receipt of the Services who need to know the confidential information in question;
"Security Feature"	any security feature including any key, PIN, password, token or smartcard;
"Services"	the services to be supplied by Product Focus under these Conditions as described in the Product Focus Toolbox and on the Product Focus website;
"Software"	any software provided by Product Focus to enable the Services to be used including any Releases;
"Support"	the support to be supplied by Product Focus including reasonable efforts to maintain the Materials in good working order and to restore the Services (if unavailable);
"Term"	the period specified in the Order;
"Virus"	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or

the operation of any programme or data, including the reliability of any programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, Trojan horses, viruses and other similar things or devices;

"Vulnerability"

a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Conditions.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The schedules form part of these Conditions and shall have effect as if set out in full in the body of these Conditions. Any reference to these Conditions includes the schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes email.
- 1.11 References to clauses and schedules are to the clauses and schedules of these Conditions and references to paragraphs are to paragraphs of the relevant schedule.
- 1.12 Any words following the terms **including**, **include**, **in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

2 Basis of Contract

- 2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

- 2.2 Where an amendment to the provisions of the Contract (other than the Charges or the basis on which they are calculated) is required as a result of an addition to the Services or relevant Service (including, for example, an amendment to acknowledge third party rights), Product Focus may give the Customer reasonable notice in writing of the necessary amendments that will take effect on the date specified in that notice.
- 2.3 The Order shall only be deemed to be accepted when the Customer is granted access to the Services at which point and on which date the Contract shall come into existence ("**Commencement Date**").
- 2.4 Any samples, drawings, descriptive matter or advertising issued by Product Focus and any descriptions or illustrations contained in Product Focus' catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms and the Customer seeks to impose or incorporate or which are implied by law, trade custom, practice or course of dealing.
- 2.6 Any quotation given by Product Focus shall not constitute an offer and is only valid for a period of 20 Business Days from its date of issue.

3 Scope

During the Term Product Focus shall supply the Services to the Customer and the Customer shall pay the Charges and use the Services.

4 Connection

- 4.1 Product Focus shall use reasonable efforts to make connection to the Services available on the Commencement Date.
- 4.2 The Customer shall ensure that it promptly complies with any minimum hardware configuration requirements specified by Product Focus for the purpose of establishing connectivity between the Customer System and the Services.
- 4.3 Each party shall bear its own costs of establishing that connectivity.

5 Services

- 5.1 During the Term Product Focus shall supply the Services to the Customer.
- 5.2 Product Focus may change at any time, with as much prior written notice to the Customer as is reasonably practicable:
- 5.2.1 the content, format or nature of Data or the Services; and
- 5.2.2 the means of access to the Data or the Services.

5.3 Product Focus shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for any planned and unscheduled [emergency] maintenance.

6 Charges

6.1 For the performance of the Services, the Customer shall pay to Product Focus the Charges.

6.2 The Charges shall be due and payable in full to Product Focus in advance.

6.3 All Charges are exclusive of VAT or any other applicable sales tax, which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law.

7 Customer User Requirements

The Customer shall:

7.1 limit access to the Services to the Customer Users;

7.2 not use the Services for any purpose contrary to any law or regulation or any regulatory code, guidance or request;

7.3 not extract, reutilise, use, exploit, redistribute, disseminate, copy or store the Data or the Materials for any purpose not expressly permitted by these Conditions;

7.4 not copy, modify, decompile, reverse engineer or create derivative works from the Software, except to the extent permitted by any applicable law;

7.5 not do anything which may damage the reputation of Product Focus, the Data or the Services, including by way of using the Data (wholly or in part) in any manner which is pornographic, racist or that incites religious hatred or violence; and

7.6 apply/retain (as applicable) Product Focus's trade mark(s) and logo(s) on all Data and Manipulated Data used, store and/or distributed to Customer Users and apply to all Data and/or Manipulated Data which is distributed to Customer Users the words "used under licence from Product Focus".

8 Unauthorised use

If any unauthorised use is made of the Data or Materials and such use is attributable to the act or default of, or through, the Customer (including breach of any Customer User Requirements) then, without prejudice to Product Focus's other rights and remedies, the Customer shall immediately be liable to pay Product Focus an amount equal to the Charges that Product Focus would have charged, had Product Focus or the Customer (as the case may be) authorised the unauthorised user at the beginning of the period of that unauthorised use.

9 Confidentiality

9.1 The term Confidential Information does not include any information that:

- 9.1.1 is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause 9);
 - 9.1.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
 - 9.1.3 was, is, or becomes, available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party;
 - 9.1.4 was known to the receiving party before the information was disclosed to it by the disclosing party; or
 - 9.1.5 the parties agree in writing is not confidential or may be disclosed.
- 9.2 Each party shall keep the other party's Confidential Information confidential and shall not:
- 9.2.1 use any Confidential Information except for the purpose of exercising or performing its rights and obligations under these Conditions ("**Permitted Purpose**"); or
 - 9.2.2 disclose any Confidential Information in whole or in part to any third party, except as expressly permitted by this clause.
- 9.3 A party may disclose the other party's Confidential Information to those of its Representatives who need to know that Confidential Information for the Permitted Purpose, provided that:
- 9.3.1 it informs those Representatives of the confidential nature of the Confidential Information before disclosure; and
 - 9.3.2 at all times, it is responsible for the Representatives' compliance with the confidentiality obligations set out in this clause 9.
- 9.4 The Customer acknowledges that Product Focus's Confidential Information includes any software or other materials created by Product Focus in connection with the Services [but does not include any Derived Data].
- 9.5 A party may disclose Confidential Information to the extent required by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of the disclosure as possible.
- 9.6 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 Conditions, are granted to the other party, or are to be implied from these Conditions.
- 9.7 The provisions of this clause 9 shall continue to apply after termination of the Contract.

10 Announcements

No party shall make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction.

11 Security and passwords

- 11.1 The Customer shall ensure that the Data and Materials are kept secure by using the Security Features and in an encrypted form, and shall use the best available security practices and systems applicable to the use of the Data and Materials to prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Data and the Materials.
- 11.2 Where Product Focus uses Security Features in relation to the Services (wholly or in part), the Security Features must, unless Product Focus notifies the Customer otherwise, be kept confidential and not lent, shared, transferred or otherwise misused.
- 11.3 If the Customer becomes aware of any misuse of any Data or the Materials, or any security breach in connection with the Contract that could compromise the security or integrity of the Data or the Materials or otherwise adversely affect Product Focus or if the Customer learns or suspects that any Security Feature has been revealed to or obtained by any unauthorised person, the Customer shall, at the Customer's expense, promptly notify Product Focus and fully co-operate with Product Focus to remedy the issue as soon as reasonably practicable.
- 11.4 The Customer agrees to co-operate with Product Focus's reasonable security investigations.
- 11.5 Product Focus may change Security Features on notice to the Customer or the Customer Users for security reasons.

12 Data protection

Product Focus will use any personal information obtained from the Customer as set out in Product Focus' privacy policy [\[link\]](#).

13 Licence

- 13.1 Product Focus grants to the Customer a non-exclusive, non-transferable, revocable, worldwide licence for the Permitted Use only during the Term, subject to the Customer User Requirements, to:
 - 13.1.1 access, view and Manipulate Editable Data and create Derived Data;
 - 13.1.2 store the Data and Manipulated Data on the Customer System;
 - 13.1.3 distribute the Data and Manipulated Data to Customer Users on the Customer System; and

- 13.1.4 use (but not modify) the Materials in support of the activities referred to in this clause 13.1.
- 13.2 Except as expressly provided in these Conditions, the Customer shall not:
 - 13.2.1 use the Services (wholly or in part) in its products or services; or
 - 13.2.2 redistribute the Services (wholly or in part).
- 13.3 The Customer shall observe the Customer User Requirements.

14 Intellectual Property Rights ownership

- 14.1 The Customer acknowledges that:
 - 14.1.1 all Intellectual Property Rights in the Data and the Materials are the property of Product Focus or its licensors, as the case may be;
 - 14.1.2 it shall have no rights in or to the Data or the Materials other than the right to use them in accordance with the express terms of these Conditions; and
 - 14.1.3 Product Focus or its licensors has or have made and will continue to make substantial investment in the obtaining, verification, selection, co-ordination, development, presentation and supply of the Data.
- 14.2 The Customer assigns to Product Focus, and shall assign to it, with full title guarantee all Intellectual Property Rights in any development of the Materials [and in any Manipulated Data it may create, by way of future assignment].
- 14.3 The Customer shall, and shall use all reasonable endeavours to procure that any necessary third party shall, at Product Focus's cost, promptly execute such documents and perform such acts as may reasonably be required for the purpose of giving full effect to these Conditions.
- 14.4 The Intellectual Property Rights assigned to Product Focus under clause 14.2 shall be deemed to be included in the Licence from the date when such rights arise.
- 14.5 Any display of the Services by the Customer shall credit, wherever technically and commercially feasible, Product Focus, any licensor of Product Focus or any other source of the Data specified by Product Focus as the source of the Data.
- 14.6 The Customer acknowledges that reference in any element of the Materials to trade names or proprietary products where no specific acknowledgement of such names or products is made does not imply that such names or products may be regarded by the Customer as free for general use, outside the scope of the use of the Materials authorised by these Conditions.

15 Intellectual Property Rights obligation

- 15.1 Product Focus undertakes to defend the Customer from and against any claim or action that the provision, receipt or use of the Data or Materials (wholly or in part) infringes any UK Intellectual Property Right excluding any US Intellectual Property Right of a third party ("**IPR Claim**") and shall be responsible for any losses, damages, costs (including all legal fees) and

expenses incurred by or awarded against the Customer as a result of, or in connection with, any such IPR Claim, provided that, if any third party makes an IPR Claim, or notifies an intention to make an IPR Claim against the Customer, the Customer shall:

15.1.1 give written notice of the IPR Claim to Product Focus as soon as reasonably practicable;

15.1.2 not make any admission of liability in relation to the IPR Claim without the prior written consent of Product Focus;

15.1.3 at Product Focus's request and expense, allow Product Focus to conduct the defence of the IPR Claim including settlement; and

15.1.4 at Product Focus's expense, co-operate and assist to a reasonable extent with Product Focus's defence of the IPR Claim.

15.2 Clause 15.1 shall not apply where the IPR Claim in question is attributable to:

15.2.1 possession, use, development, modification or retention of the Data or Materials (wholly or in part) by the Customer other than in accordance with the Contract, provided that the obligations in clause 15.1 shall not apply to the extent that the relevant Claim was attributable to the use of any Manipulated Data;

15.2.2 the Customer's failure to provide a suitable environment for connecting the Customer System to the Services in breach of clause 4.2;

15.2.3 use of the Data or the Materials (wholly or in part) in combination with any hardware or software not supplied or specified by Product Focus to the extent that the infringement would have been avoided by the use of the Data or the Materials (wholly or in part) not so combined;

15.2.4 use of the Data (wholly or in part) in combination with any data not supplied or specified by Product Focus to the extent that the infringement would have been avoided by the use of the Data (wholly or in part) not so combined; or

15.2.5 use of a non-current Release to the extent that the infringement would have been avoided by the use of the current Release.

15.3 If any IPR Claim is made, or in Product Focus's reasonable opinion is likely to be made, against the Customer, Product Focus may at its sole option and expense:

15.3.1 procure for the Customer the right to continue using, developing, modifying or retaining the Data or the Materials (wholly or in part) in accordance with these Conditions;

15.3.2 modify the Data or the Materials (wholly or in part) so that they cease to be infringing;

15.3.3 replace the Data or the Materials (wholly or in part) with non-infringing items; or

15.3.4 terminate the Contract immediately by notice in writing to the Customer and refund any Charges for the Term paid by the Customer as at the date of termination (less a

reasonable sum in respect of the Customer's use of the Data or Materials to the date of termination) on return of the Data or the Materials and all copies of each of them.

- 15.4 This clause 15 constitutes the Customer's sole and exclusive remedy and Product Focus's only liability in respect of Claims and, for the avoidance of doubt, is subject to clause 17.4.

16 Warranties

- 16.1 Product Focus warrants that it has the right to license the receipt and use of Data and Materials as specified in these Conditions.

- 16.2 Except as expressly stated in these Conditions, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

- 16.3 Without limiting the effect of clause 16.2, Product Focus does not warrant that:

16.3.1 the supply of the Data or use of the Software will be free from interruption;

16.3.2 the Services will run on the Customer System;

16.3.3 the Data is accurate, complete, reliable, secure, useful, fit for purpose or timely; or

16.3.4 the Data has been tested for use by the Customer or any third party or that the Data will be suitable for or be capable of being used by the Customer or any third party.

17 Limitation of liability

- 17.1 Neither party excludes or limits liability to the other party for:

17.1.1 fraud or fraudulent misrepresentation;

17.1.2 death or personal injury caused by negligence;

17.1.3 a breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

17.1.4 any matter in respect of which it would be unlawful for the parties to exclude liability.

- 17.2 Subject to clause 17.1, Product Focus shall not in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:

17.2.1 any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;

17.2.2 any loss or corruption (whether direct or indirect) of data or information;

17.2.3 loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or

- 17.2.4 any loss or liability (whether direct or indirect) under or in relation to any other contract.
- 17.3 Clause 17.2 shall not prevent claims, which fall within the scope of clause 17.4, for:
- 17.3.1 direct financial loss that are not excluded under any of the categories set out in clause 17.2.1; or
- 17.3.2 tangible property or physical damage.
- 17.4 Subject to clause 17.1, Product Focus's total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract or any collateral contract shall in all circumstances be limited in aggregate to the total Charges paid by the Customer to Product Focus.
- 17.5 Any dates quoted for delivery of the Services are approximate only, and the time of delivery is not of the essence. Product Focus shall not be liable for any delay in delivery of the Services that is caused by an event within the scope of clause 19 or the Customer's failure to provide Product Focus with adequate delivery instructions or any other instructions that are relevant to the supply of the Services or the Customer's failure to comply with clause 4.2.

18 Term and termination

- 18.1 The Contract shall commence on the Commencement Date and unless terminated earlier in accordance with clause 18.2 it shall continue for the Term.
- 18.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 18.2.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 7 days after being notified in writing to do so;
- 18.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 18.2.3 the other party suspends, or threatens to suspend, or ceases to threaten to cease to carry on all or a substantial part of its business; or
- 18.2.4 the other party's financial position deteriorates to such an extent that in the terminating party's reasonable opinion the other party's capability to adequately fulfil its obligations under these Conditions has been placed in jeopardy.

- 18.3 Without affecting any other right or remedy available to it, Product Focus may terminate the agreement with immediate effect by giving written notice to the Customer if:
- 18.3.1 the Customer fails to pay any amount due under the agreement on the due date for payment; or
- 18.3.2 there is a change of control of the Customer.
- 18.4 Any provision of these Conditions that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
- 18.5 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 18.6 On any termination of the Contract for any reason or expiry of the Term, the Customer shall immediately pay any outstanding amounts owed to Product Focus under the Contract and, within a reasonable period of termination or expiry ensure that there is no further use of the Services in any of the Customer's products or applications.
- 18.7 On any termination of the Contract for any reason or expiry of the Term:
- 18.7.1 each party shall as soon as reasonably practicable return, delete or destroy (as directed in writing by the other party) all data, information, software, and other materials provided to it by the other party in connection with the Contract including all materials containing or based on the other party's Confidential Information, except for one copy that it may use for audit purposes only, and subject to the confidentiality obligations in clause 9; and
- 18.7.2 without limiting the effect of clause 18.7.1, the Customer shall as soon as reasonably practicable ensure that all Data and Manipulated Data (excluding any Derived Data) is deleted from the Customer System,
- and any electronic data shall be considered deleted, for the purpose of this clause 18.7, where it has been put beyond use by the deleting party.
- 18.8 On any termination of the Contract for any reason or expiry of the Term, Product Focus shall refund any Charges for the Term paid by the Customer as at the date of termination or expiry (less a reasonable sum in respect of the Customer's use of the Data or the Materials to the date of termination), except where the ground for termination is material breach by the Customer, in which case the Customer shall not be entitled to any refund.
- 18.9 If a party is required by any law, regulation, or government or regulatory body to retain any documents or materials that it would otherwise be required to return or destroy under clause 18.7, it shall notify the other party in writing of that retention, giving details of the documents or materials that it must retain. That party shall not be in breach of clause 18.7 with respect to the retained documents or materials, but clause 9 shall continue to apply to them.

19 Force majeure

Neither party shall be in breach of these Conditions nor liable for delay in performing, or failure to perform, any of its obligations under these Conditions if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations.

20 Assignment

- 20.1 The Contract is personal to the Customer and it shall not assign, transfer, mortgage, charge, sub-contract, declare a trust of or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Product Focus (which is not to be unreasonably withheld or delayed).
- 20.2 The Customer confirms it is acting on its own behalf and not for the benefit of any other person.
- 20.3 Product Focus may at any time assign, transfer, mortgage, charge, sub-contract, declare a trust of or deal in any other manner with any of its rights and obligations under the Contract without the consent of the Customer.

21 Waiver

No failure or delay by a party to exercise any right or remedy provided under these Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

22 Remedies

Except as expressly provided in these Conditions, the rights and remedies provided under these Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

23 Notice

- 23.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
 - 23.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - 23.1.2 sent by email to the email address given by the Customer in its Order, in respect of the Customer, and on the Product Focus website, in respect of Product Focus, or as otherwise notified in writing to the other party.
- 23.2 Any notice or communication shall be deemed to have been received:

23.2.1 if delivered by hand, at the time the notice is left at the proper address;

23.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

23.2.3 if sent by email, at the time of transmission.

23.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include email.

24 Entire agreement

24.1 These Conditions constitutes the entire agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.

24.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in the Contract.

24.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Conditions.

25 Variation

Except as expressly provided in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

26 Severance

26.1 If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Conditions.

26.2 If any provision or part-provision of these Conditions is deemed deleted under clause 26.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

27 No partnership or agency

27.1 Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

27.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

28 Third-party rights

28.1 A person who is not a party to these Conditions shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

28.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under these Conditions are not subject to the consent of any other person.

29 Governing law

The Contract and these Conditions and any dispute or claim arising out of or in connection with it or its or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

30 Jurisdiction

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