

LINAK-UK LIMITED - TERMS AND CONDITIONS OF SALE

1. Definitions

- 1.1 Contract - these terms and conditions and the document agreed between the parties setting out the parties, Specification of Goods, Target Delivery Date, Delivery Address and Contract Price.
- 1.2 Contract Price - the price agreed between the parties for the Goods.
- 1.3 Customer - the person, firm or company with whom the Vendor contracts.
- 1.4 Delivery Address - the address to which the Goods will be delivered.
- 1.5 Goods - the goods set out in the Specification.
- 1.6 Incoterms - 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.
- 1.7 Specification - the specification of the Goods to be provided under the Contract set out in writing and agreed by both parties.
- 1.8 Target Delivery Date - the date agreed between the parties on which the Vendor will endeavour to deliver the Goods.
- 1.9 Vendor - Linak-UK Ltd (co. no. 02483800), reg'd office Actuation House, Crystal Drive, Sandwell Business Park, Smethwick, West Midlands B66 1RJ.
- 1.10 Warranty Period - the default period of 12 months from the date of delivery of the Goods, unless a different period has been agreed.

2. Basis of the Contract

- 2.1 The Vendor agrees to supply the Goods to the Customer and the Customer agrees to pay the Contract Price in accordance with the terms of the Contract.
- 2.2 Any quotation provided by the Vendor shall not constitute a contractual offer, and a Contract shall only be formed on acceptance by the Vendor of the Customer's order.
- 2.3 These terms and conditions shall apply to all contracts for the provision of goods and/or services by the Vendor to the Customer to the exclusion of all other terms and conditions including any terms and conditions which the Customer may purport to apply under any order or other document. In the case of any conflict or ambiguity between the Customer's original specification and the Specification set out on this document, the latter shall prevail.
- 2.4 Acceptance of delivery of the Goods by the Customer shall be deemed conclusive evidence of the Customer's acceptance of the Contract.
- 2.5 The Vendor may employ sub-contractors to carry out any part of its obligations under the Contract at its sole discretion and it may assign its rights and obligations under this Contract to any other party. The Customer may not employ sub-contractors nor assign its rights and obligations under this Contract without the written consent of the Vendor.
- 2.6 Any variation of these terms and conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by a director or other duly authorised representative of the Vendor.
- 2.7 Any tender or quotation submitted by the Vendor to the Customer shall, unless otherwise stated, be subject to these terms and conditions, be valid for 30 days and may be revoked at any time.
- 2.8 Any reference in this Contract to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 2.9 Where delivery is agreed to be made by instalments, each instalment may be deemed at the Vendor's discretion to be a separate and distinct contract and no default by the Vendor in respect of any one or more instalment shall entitle the Customer to reject or withhold payment in respect of any other instalment.

3. Payment Provisions

- 3.1 The Contract Price shall be agreed between the parties in writing before delivery of the Goods.
- 3.2 The Vendor reserves the right by giving notice to the Customer at any time before delivery of the Goods to increase the Contract Price if:-
 - 3.2.1 the costs to the Vendor of purchasing or providing such Goods increase due to any factor beyond the control of the Vendor, including material exchange rate fluctuations and increased supplier charges;
 - 3.2.2 the Customer changes the Specification;
 - 3.2.3 the Customer agrees to any change to the Specification proposed by the Vendor;
 - 3.2.4 the Customer causes any delay;
 - 3.2.5 Goods are required by the Customer with exceptional urgency;
 - 3.2.6 the Customer requests test certificates, certificates of conformity, or any other testing or documentation which is not provided for in the Specification;
 - 3.2.7 the Customer fails to give the Vendor adequate or accurate information, instructions or facilities in accordance with this Contract.
- 3.3 The Vendor may, at its discretion, agree a credit limit with the Customer and may vary that limit at any time by notice to the Customer. Such variation shall apply to all invoices then undelivered. All sums due under the Contract will be invoiced by the Vendor and paid by the Customer as follows:-
 - 3.3.1 Credit Customers operating within an agreed credit limit - Unless alternative payment provisions are agreed, the Vendor may submit an invoice or invoices at any time during or after delivery of the Goods in respect of such part of the Goods delivered to that date. The Customer shall pay such invoices by the end of the month following the date of invoice;
 - 3.3.2 Non-credit Customers or credit Customers operating beyond their credit limit from time to time - The Vendor may submit invoices in advance of performance of the Contract and may require pre-payment as a condition of doing so.
- 3.4 Invoices shall be sent to the Customer's address recorded in this Contract.
- 3.5 Invoices shall be paid without any deduction, set-off, counterclaim or abatement and time for payment shall be of the essence.
- 3.6 The Vendor may specify which currency and method of payment it requires the Customer to use.
- 3.7 Where the Contract includes a specified Euro-Sterling exchange rate, the Contract Price shall be adjusted to reflect any movement in the said exchange rate at the date of delivery of the Goods, and such adjustment shall be itemised on the invoice.
- 3.8 The Contract Price does not include VAT or any similar sales tax, impost or customs duties unless expressly stated, which will be paid additionally by the Customer at the then prevailing rate.
- 3.9 The Contract Price does not include carriage, packing or insurance unless expressly stated, and such sums may be added by the Vendor to the Contract Price.
- 3.10 If the Customer fails to make any payment within the time specified in this Contract the Vendor may take any or all of the following steps:-
 - 3.10.1 immediately invoice the balance of the Contract Price in advance of the delivery of any further Goods;
 - 3.10.2 cancel the Contract and any other contract between the Vendor and the Customer;
 - 3.10.3 charge the Customer interest (both before and after any judgement) on the amount unpaid at the rate of 8% per annum above the Official Dealing Rate of the Bank of England from time to time until payment in full is made, and also charge the Customer for all costs and expenses (including legal costs) incurred by the Vendor in the collection of any overdue amount;
 - 3.10.4 appropriate any payment made by the Customer and set-off any monies due to the Customer, whether under this Contract or any other contract or otherwise (including any VAT applicable), to or against the unpaid invoice or invoices;
 - 3.10.5 refuse to deliver any balance of Goods or provide any services or guarantee services, whether under this Contract or any other contract or otherwise, until payment is made in full;
 - 3.10.6 retain any property of the Customer then in its possession under a general lien for any such payment.
- 3.11 Where payment is made by means of any bill of exchange, cheque or other negotiable instrument, payment shall not be treated as having been made until such instrument has been honoured on presentation for payment.

- 3.12 Prices contained in any price list, catalogue, website etc. are those applying at the date thereof, are for guidance only and shall not bind the Vendor until a firm Contract Price has been agreed.

4. Goods

- 4.1 The Goods shall be at the Customer's risk as from delivery to the Delivery Address, or in the case of collection by the Customer, from the date and time of such collection, save for later damage caused to the Goods by any negligent act of the Vendor or any of its sub-contractors and the Customer will be responsible for insuring the Goods from the time risk passes.
- 4.2 In spite of delivery having been made, legal title in the Goods and to all other goods delivered by the Vendor to the Customer, whether themselves paid for or not, shall not pass from the Vendor to the Customer until the Contract Price has been paid in full and no other sums are due from the Customer to the Vendor.
- 4.3 Until title in the Goods passes to the Customer, the Customer shall hold the Goods on a fiduciary basis as bailee for the Vendor. The Customer shall store the Goods and any converted or processed goods deriving from them separately from all other goods in its possession.
- 4.4 Notwithstanding that the Goods remain the property of the Vendor, the Customer may sell or use the Goods in the ordinary course of its business and shall deal as principal in any such transactions.
- 4.5 The Vendor shall be entitled to recover the Contract Price notwithstanding that title has not passed to the Customer.
- 4.6 Until such time as title in the Goods passes to the Customer, and provided that the Customer is in default in payment or the Vendor in good faith on reasonable grounds believes the Customer is or may be insolvent or has ceased trading, the Customer shall on demand by the Vendor deliver up such Goods as have not ceased to be in existence or resold, to the Vendor. If the Customer fails to do so, the Vendor or any duly authorised representative of the Vendor may enter upon any premises owned, occupied or controlled by the Customer where the Goods are situated and repossess the Goods, using only such force as may be necessary. On the making of such demand, the Customer's rights under clause 4.4 shall cease.
- 4.7 The Customer's rights under clause 4.4 shall automatically cease if any of the grounds for termination of the Contract under clause 11.1 arise.
- 4.8 The Customer shall not pledge or in any way charge by way of security for any indebtedness, any of the Goods which are the property of the Vendor. Without prejudice to any other rights of the Vendor, if the Customer does so, all sums whatever owing by the Customer to the Vendor shall forthwith become due and payable.
- 4.9 The Customer shall insure and keep insured the Goods to the full Contract Price against "all risks" to the reasonable satisfaction of the Vendor until the date when property in the Goods passes, and shall whenever requested by the Vendor produce a copy of the policy of insurance. Without prejudice to the other rights of the Vendor, if the Customer fails to do so, all sums whatever owing by the Customer to the Vendor shall forthwith become due and payable.
- 4.10 Any intellectual property rights in the Goods or in any designs or specifications produced by the Vendor for the purpose of the Contract shall remain the property of the Vendor or of the Vendor's supplier, as applicable. No right or licence is granted except the right to use or resell the Goods.

5. Delivery

- 5.1 The Vendor will be responsible at the Customer's cost (unless otherwise agreed) for the delivery of the Goods to the Delivery Address. If no separate Delivery Address is specified in the Contract, the Goods will be delivered to the Customer's address.
 - 5.2 The Vendor will use all reasonable endeavours to deliver the Goods on the Target Delivery Date but this date will be treated as a target date only and time will not be of the essence. If no dates are specified, delivery of the Goods will be within a reasonable time.
 - 5.3 In particular, the Vendor shall not be responsible for delay caused by factors beyond its control.
 - 5.4 The Vendor reserves the right by giving notice to the Customer at any time before delivery of the Goods to change the Target Delivery Date if:-
 - 5.4.1 the Customer changes or agrees to change the Specification;
 - 5.4.2 the Customer causes any delay;
 - 5.4.3 the Customer fails to give the Vendor adequate or accurate information, instructions or facilities.
 - 5.5 If the Customer wishes to change the Target Delivery Date, it shall give not less than 60 days prior written notice to the Vendor, in which event, the Vendor will use its best endeavours to accommodate such change, subject to its suppliers' lead times for the Goods.
 - 5.6 The Customer shall make such arrangements as are necessary to take delivery of the Goods at the Delivery Address on the Target Delivery Date or on such other date as the Vendor notifies the Customer that delivery will be made.
 - 5.7 If the Customer changes the Target Delivery Date of any Goods or fails to take delivery on the date the Goods are ready for delivery or indicates to the Vendor that it will not accept delivery on any date agreed or notified under clauses 5.4 or 5.5, the Vendor shall be entitled:-
 - 5.7.1 at the Customer's risk and expense to store the Goods at the Vendor's premises and to demand payment as if they had been delivered;
 - 5.7.2 to add a financing and stocking charge to the Contract Price in respect of the period from that date to the actual date of delivery at the rate of 15% per annum.
 - 5.8 Following delivery of the Goods the Customer shall follow any instructions of the Vendor as to use and maintenance of the Goods, including any user manual which may be supplied by the Vendor or published on its website from time to time.
 - 5.9 No act or omission of the Customer which prevents the Vendor from delivering the Goods or from delivering them according to any agreed time-scale shall prevent the Vendor from raising invoices in accordance with clause 3.
 - 5.10 The Vendor shall not be liable for any claim for loss or damage to the Goods in transit unless such claim is notified in writing both to the Vendor and the carrier within 7 days of delivery of the Goods. Where the Customer accepts the Goods from the carrier without checking, the Vendor shall not be liable for such claim unless the Customer has marked the delivery note "not examined".
- ## 6. Buffer Stocks and Free-Issue Parts
- 6.1 If the Vendor agrees with the Customer to hold a defined quantity of "buffer stocks" (whether fixed or rotating) on its behalf, being a quantity of Goods which the parties anticipate the Customer will require but which are not covered by a firm order, then in the event that the Customer ceases to place material orders for the Goods concerned with the Vendor for a period of not less than 3 months, or any termination event arises at clause 11.1, the Customer shall be required to purchase the buffer stocks on receipt of a written notice from the Vendor to that effect, at the then current pricing agreed between the parties (or in default, the then current list price), provided that such obligation shall not apply to the extent that the Vendor can reasonably expect to sell the Goods to another customer at an equivalent price within 28 days.
 - 6.2 Where any parts, components, materials, objects etc. for incorporation in or with the Goods are issued free of charge to the Vendor by the Customer or by a supplier nominated by the Vendor or where the Customer stipulates that the Vendor shall purchase or acquire such parts etc. from a third party nominated by the Customer:-
 - 6.2.1 the Customer shall indemnify the Vendor in respect of any loss or damage sustained by the Vendor (including liability to any third party, such as the eventual customer) where such loss or damage is caused by or contributed to by the non-delivery to the Vendor of such parts, the quality of such parts or any other factor beyond the control of the Vendor;
 - 6.2.2 the Vendor shall take no responsibility for the quality or suitability of the said parts, which shall be the sole responsibility of the Customer; and

- 6.2.3 in any event, the Vendor's obligations in respect of such parts shall be regulated by this Contract, including clauses 8 and 10.
- 7. Export terms**
- 7.1 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 this Contract, but if there is any conflict between the provisions of Incoterms and this Contract, the latter shall prevail.
- 7.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 7 shall (subject to any special terms agreed in writing between the Vendor and the Customer) apply notwithstanding any other provision of this Contract.
- 7.3 The Customer 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.
- 7.4 Unless otherwise agreed in writing between the Customer and the Vendor, the Goods shall be delivered CIF.
- 8. Acceptance, Defects, Warranty**
- 8.1 The Vendor warrants that the Goods will comply with the Specification.
- 8.2 Within 7 days of delivery of the Goods (or 14 days in the event of a complaint of non-delivery) the Customer shall notify the Vendor in writing, either that it accepts the Goods and that they are free of defects, or a list of such defects as are known to it at that time.
- 8.3 If no such notification is received the Customer shall be deemed to have accepted the Goods. After acceptance, whether deemed or otherwise, the Customer shall not be entitled to reject the Goods or any part of them.
- 8.4 In the event of any defect, the Customer shall be entitled to report only those Goods demonstrating the defect and not in any circumstances save for a universal defect, an entire batch.
- 8.5 During the Warranty Period, the Customer shall notify the Vendor in writing within 7 days of discovery of any defects in the Goods and will on request, at the Customer's expense, return the allegedly defective Goods to the Vendor for examination.
- 8.6 The Vendor shall use its best endeavours to correct any defect arising under normal use and due solely to faulty design (except where supplied by or on behalf of the Customer), materials or workmanship, which is notified to it within the Warranty Period in compliance with this clause 8, within a reasonable time of receiving such notification, and may at its discretion:-
- 8.6.1 carry out such work as is necessary to remedy the defect;
- 8.6.2 require that the Goods, or part of them, are returned to the Vendor's address or collect such Goods, in either case at the Customer's risk and expense, to examine the Goods or carry out repair work;
- 8.6.3 replace all or any part of the Goods;
- 8.6.4 refund the Contract Price or such part of it as relates to the defective Goods; and such action shall be accepted by the Customer in full satisfaction of the Vendor's liability for the defect concerned and for any consequences thereof.
- 8.7 Goods which are repaired or replaced shall be guaranteed for the remainder of the Warranty Period.
- 8.8 The Vendor may invoice the Customer for the cost of any work or materials brought about by the Customer's notification of any defect, where such defect is not attributable to any act or omission of the Vendor or is attributable to:-
- 8.8.1 misuse of the Goods by the Customer;
- 8.8.2 failure to follow the Vendor's advice as to use and maintenance of the Goods;
- 8.8.3 any modification made to the Goods by the Customer or by any third party without the prior written consent of the Vendor.
- 8.9 If any unauthorised modification is made to the Goods or the Customer continues to use them or re-sells them (or any of them) after identification of a defect, the Vendor shall not be obliged to correct any defects or provide any warranty services under this Contract.
- 8.10 Where the Vendor has acquired the Goods with the benefit of an original manufacturer's warranty, it shall use its best endeavours to pass on the benefit of that warranty to the Customer.
- 9. Customer's responsibilities**
- 9.1 The Customer will provide the Vendor with such information, drawings and designs and other material as it may reasonably need to perform the Contract. The Customer warrants that such material is accurate and complete.
- 9.2 The Customer shall be responsible for ensuring that the Goods are fit for the purpose for which it or any third party intends to use them, and covenants that the Goods will only be used for purposes for which they are sufficient and suitable.
- 9.3 The Customer will obtain all necessary licences or authorities which may be needed in connection with the Goods.
- 9.4 The Customer warrants that it has not relied on any representations made by or on behalf of the Vendor or upon any descriptions, illustrations or specifications contained in any material produced by or on behalf of the Vendor save for the Specification of the Goods as agreed between the parties. Any technical information and advice given by the Vendor to the Customer relating to the performance or use of the Goods or otherwise is based on the Vendor's experience, but the Customer shall not rely on such material and the Vendor shall not be liable for its content, unless such information / advice is recorded in writing and appended to the Specification.
- 9.5 The Customer warrants that no specification, design, instruction or material given by it to the Vendor, nor the intended use of the Goods (whether in combination with any other goods or otherwise) will not infringe any intellectual property or other rights of any third party, nor will it be defamatory or otherwise unlawful, and the Customer will indemnify the Vendor in respect of any claim relating to such infringement.
- 9.6 The Customer agrees to indemnify the Vendor against all costs and liabilities incurred by it due to any breach by the Customer of the terms of this Contract or otherwise in connection with the Customer's use of the Goods, including any consequential losses.
- 10. Limitation of Liability**
- 10.1 The Vendor shall not be responsible for any defects in the Goods which are not notified in writing to it within the Warranty Period, nor for any defects notified to it within this period but not in accordance with the time limits set out at clause 8 above, nor for any defects which are the fault of the Customer or any third party.
- 10.2 The terms of this Contract represent the whole agreement between the parties and all other warranties, conditions, terms, undertakings or representations of any kind, whether express or implied, statutory or otherwise relating to the provision of any goods or services under or in connection with the Contract including (without limitation) as to the condition, quality, performance or fitness for purpose of the Goods or any of them or the standard of care used in the provision of any services are hereby expressly excluded from the Contract save for the undertakings implied by the Sale of Goods Act 1979 section 12 in respect of title to any goods.
- 10.3 The Vendor shall not be liable under contract, tort (including negligence) or otherwise for any loss of production, loss or corruption of data, loss of profits or of contracts, loss of operation time, loss of goodwill and loss of anticipated savings, nor for any indirect or consequential loss, damage, cost or expense of any kind whatever and however caused.
- 10.4 The Vendor accepts liability for death or injury caused by the negligence of the Vendor or that of its employees, agents or sub-contractors acting in the course of their engagement under this Contract, and liability which otherwise cannot be excluded by law, without limit.
- 10.5 In all other cases not falling within clause 10.4, the Vendor's total liability (whether in contract, tort including negligence or otherwise) under or in connection with this Contract or based on any claim for contribution or indemnity in respect of any single claim or series of connected claims shall not exceed the Contract Price in aggregate. The Vendor may be prepared to provide wider limitation terms in return for an enhanced payment.
- 10.6 The Vendor shall not be liable for any change to the Specification of the Goods if the variation does not materially affect the characteristics of the Goods, and the substituted parts and materials (if any) are of comparable quality to the originals.
- 10.7 The Customer agrees that except as expressly provided in this Contract, the Vendor will not be under any liability of any kind whatever and however caused, arising directly or indirectly in connection with this Contract.
- 10.8 Any liability of the Vendor under the Contract shall be subject to and conditional upon the due performance by the Customer of all its obligations under this Contract and, subject to these terms, the Customer shall not be entitled to withhold or delay payment or exercise any right of set-off which might otherwise have been available to it.
- 10.9 The Customer acknowledges and agrees that the allocation of risk contained in this clause 10 is reflected in the Contract Price and is a recognition of the fact that the Goods cannot be tested in every possible combination and therefore the Vendor does not warrant that the operation of the Goods will be wholly uninterrupted or error free.
- 10.10 The Customer shall maintain such insurance protection as shall be reasonable and prudent, taking account of the nature of the Customer's business. The Vendor shall not be liable under this Contract for losses suffered by the Customer which are, or would have been, recoverable under such policy of insurance.
- 10.11 The Contract Price is fixed taking into account the insurance cover available to the Vendor against loss and damage sustained by the Customer and the Customer accepts these limitation provisions as being reasonable in all the circumstances.
- 11. Termination**
- 11.1 The Vendor may terminate this Contract or suspend its performance with immediate effect on written notice if the Customer:-
- 11.1.1 ceases or threatens to cease to carry on its business or becomes insolvent or enters into liquidation or any formal insolvency process or has a receiver or administrator appointed over any of its assets or issues a dishonoured bill of exchange;
- 11.1.2 commits a material breach of this Contract and, in the case of a breach capable of remedy, fails to remedy it within 14 days of receipt of written notice from the Vendor specifying the breach and containing a warning of an intention to terminate if the breach is not remedied;
- 11.1.3 refuses to take delivery of the Goods or any part of them or collect them on the Target Delivery Date or on such later date as they are ready for delivery;
- 11.1.4 defaults in paying the Contract Price or any part of it.
- 11.2 In the event of a suspension, the Vendor shall be entitled to demand pre-payment of any part of the Contract Price not yet due for payment as a condition of re-commencing its performance.
- 11.3 The Vendor may terminate this Contract at its discretion at any time by giving 21 days notice in writing to the Customer.
- 11.4 Upon termination of this Contract for whatever cause, the Customer shall pay to the Vendor all monies due to the Vendor at that date after taking into account amounts previously paid including:-
- 11.4.1 the total value of Goods delivered up to the date of termination, the Contract Price for which shall then become payable immediately notwithstanding any prior contrary arrangement;
- 11.4.2 any cancellation charges payable to the Vendor's sub-contractors;
- 11.4.3 the cost of the Goods ordered for the purposes of the Contract for which the Vendor has paid or is legally bound to pay. The Vendor may at its discretion retain or take back part or all of the Goods in lieu of the payment attributable to such material;
- 11.4.4 the cost of removal from the Delivery Address of any property of the Vendor;
- 11.4.5 any other costs incurred by the Vendor in connection with the Contract or its termination including but not limited to loss of profits, processing costs already incurred and any reduction in the value of the material used.
- 11.5 Termination of this Contract shall not affect any rights of the parties accrued to them up to the date of termination.
- 12. Force Majeure**
- 12.1 Neither party shall be liable for any delay in performing or failing to perform any of its obligations under this Contract due to any act of God, war, strike, lock-out, industrial action, fire, flood, drought, tempest, supplier delay or other event beyond the reasonable control of either party.
- 12.2 The party claiming the force majeure event will promptly notify the other of it and will take all reasonable steps to minimise its effect. Any costs associated with such event shall be borne by the party incurring those costs.
- 12.3 So long as the force majeure event continues, the Customer may contract with any third party for the goods or services which the Vendor is unable to provide as a result.
- 13. Miscellaneous**
- 13.1 All notices to be given under this Contract shall be in writing and shall be delivered electronically or by fax, or sent to the normal business address of the party concerned by first class post or by hand.
- 13.2 No delay or failure by the Vendor to exercise any of its powers, rights or remedies under this Contract will operate as a waiver of them and any waiver, to be effective, must be in writing.
- 13.3 If any part of this Contract is found by a court or other competent authority to be invalid, unlawful or unenforceable then such part will be severed from the remainder of this Contract which will continue to be valid and enforceable to the fullest extent permitted by law.
- 13.4 This Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all previous communications, representations and other arrangements, written or oral.
- 13.5 The Customer undertakes not at any time to disclose any confidential information, documents or other material supplied or made known to it during the existence of this Contract by the Vendor to any third party, save as permitted by this Contract and save for any information in the public domain, and to use its best endeavours to prevent unauthorised publication or disclosure of the same.
- 13.6 The Vendor shall be entitled to set-off against any monies payable to it by the Customer under this Contract, any monies which may be payable by it to the Customer, whether under this Contract or otherwise. The Customer shall not be entitled to any right of set-off.
- 13.7 This Contract will be construed in accordance with and governed by the laws of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.