

**CLARITY ENVIRONMENTAL LIMITED
STANDARD TERMS AND CONDITIONS FOR
PURCHASE OF LEAD-ACID BATTERIES**

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these Conditions.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

CELNet System: the web-based system operated by Clarity which is used to: (a) produce certain documentation relating to the Lead-Acid Batteries sold under the Contract; (b) inform the Seller of the weight of Lead-Acid Batteries and/or non-conforming items, and/or of any damaged or scrapped Packing Boxes, delivered to the Hub (or the Reprocessor) and the aggregate of any Clarity Charges.

Clarity: Clarity Environmental Limited, a company incorporated in England and Wales with company no 4559478 and whose registered office and principal place of business is at 10 Hunns Mere Way, Woodingdean Business Park, Brighton, East Sussex BN2 6AH.

Clarity Charges: as defined in condition 4.11.

Conditions: these Clarity Environmental Limited Standard Terms and Conditions for Purchase of Lead-Acid Batteries.

Confidential Information: information in whatever form relating to the business, services, affairs and finances of Clarity for the time being confidential to Clarity and whether or not such information is marked confidential.

Contract: the agreement between Clarity and the Seller which incorporates the Offer Form and Conditions and which is formed in accordance with condition 2.4.

Deadline: means (a) for Offer Forms issued before 4pm on a Business Day, by no later than one hour following the Offer Form's issue; and (b) for Offer Forms issued after 4pm on a Business Day, by no later than 10am on the next Business Day.

Due Date: the date by which either the Seller is to deliver the Lead-Acid Batteries at the Hub or Clarity is to collect the Lead-Acid Batteries from the Seller and is that date which is identified as the "Due Date" in the Offer Form.

Hub: the third party site (as determined by Clarity) that shall be responsible either for the checking, weighing, reporting and repacking of, or for the exporting of, the Lead-Acid Batteries and which is identified as such in the Offer Form.

Lead-Acid Batteries: any lead-acid batteries agreed in the Contract to be bought by Clarity from the Seller (including any part or parts of them), the brief particulars of which are described in the Offer Form. For the avoidance of doubt, Lead-Acid Batteries shall not include NiCad batteries, portable batteries (but excluding portable lead-acid batteries), standby power batteries, or traction batteries.

Offer Form: the Seller's offer to sell the Lead-Acid Batteries to Clarity which is generated by the CELNet System and verified by the Seller in accordance with condition 2.3.

Packing Boxes: pallet boxes (of a type and size determined by Clarity) which allow for the safe storage and transportation of Lead-Acid Batteries and which Clarity provides to the Seller on loan.

Reprocessor: the entity that reprocesses Lead-Acid Batteries whose identity may be further detailed in the Offer Form.

Seller: the person, firm or company who offers for sale the Lead-Acid Batteries, which are the subject of Offer Form, and who, or which, is more particularly identified in the Offer Form.

Seller-Packed Pallets: wooden pallets bearing Lead-Acid Batteries, packed in accordance with condition 3.3.

1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 A reference to one gender includes a reference to the other gender.

1.4 Condition headings do not affect the interpretation of these Conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.7, these Conditions are the only conditions upon which Clarity is prepared to deal with the Seller and they shall govern the Contract to the entire exclusion of all other terms or conditions.

2.2 The Offer Form constitutes an offer by the Seller to sell the Lead-Acid Batteries to Clarity in accordance with these Conditions.

2.3 The Seller shall ensure that the terms of the Offer Form and any applicable specification are complete and accurate by no later than the applicable Deadline. If the Seller notifies Clarity that the Offer Form is incomplete or inaccurate, Clarity will effect the necessary changes and issue a new Offer Form and, in such circumstances, the applicable Deadline shall be by reference to the time of issue of the replacement Offer Form. In any event the Seller shall be deemed to have verified the Offer Form is complete and accurate if it has not notified Clarity to the contrary by the Deadline.

2.4 Clarity shall be deemed to have accepted the Offer Form immediately following the Deadline (if it has not rejected the Seller's offer before then) at which point and on which date the Contract shall come into existence. Clarity will not purport to accept or have accepted the Offer Form before the Deadline.

2.5 Any notice to be given under condition 2.3 or condition 2.4 must be sent by email or given by telephone to the addresses and numbers set out in this condition 2.5. Clarity's email address is info@clarityenv.eu and its telephone number is 0845 129 7177 or such other email address or telephone number as otherwise notified from time to time. The email address and telephone number for such notices to the Seller will be as set out in the Offer Form or, if no email address or telephone number is indicated, the main email address and telephone number indicated on the Seller's website. A notice will be deemed to have been served: (a) if sent by email, on automatic return delivery receipt of the email to the sender whether or not read or opened by the party receiving the notice; and (b) if given by telephone, at the time the recipient acknowledges the notice has been given.

2.6 No terms or conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement, offer, invoice, delivery note, specification or similar documents shall form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and conditions.

2.7 These Conditions apply to all Clarity's purchases and any variation to these Conditions shall have no effect unless expressly agreed in writing and signed by a director of Clarity.

3. DELIVERY OR COLLECTION OF THE LEAD-ACID BATTERIES

3.1 The Seller shall ensure the Lead-Acid Batteries shall conform in all respects with the description set out in the Offer Form or advised by Clarity to the Seller.

3.2 Without prejudice to condition 3.1, the Seller warrants, represents and undertakes to Clarity that all Lead-Acid Batteries supplied under the Contract will be sourced from within the United Kingdom of Great Britain and Northern Ireland and the Seller shall, at Clarity's request, provide documentary evidence to demonstrate its compliance with this condition

- 3.2.
- 3.3 If Clarity has provided Packing Boxes, the Seller shall safely and securely pack the Lead-Acid Batteries in the Packing Boxes, such Packing Boxes remaining at all times Clarity's property. The Seller shall be liable for any damage or alteration to the Packing Boxes while they are in the Seller's possession or control.
- 3.4 If Clarity has offered to purchase and collect Lead-Acid Batteries on Seller-Packed Pallets, the Seller shall safely and securely pack the Lead-Acid Batteries in accordance with Clarity's instructions, as notified to the Seller from time to time. In the absence of any such instructions, the Seller shall, as a minimum, when packing the Lead-Acid Batteries, comply with the following: (a) use good quality, undamaged, wooden pallets; (b) ensure all Lead-Acid Batteries conform with conditions 3.1 and 3.2, and ensure that there are no traces of alkalis or acids on the outside of them; (c) stack the Lead-Acid batteries on the pallets in layers (to a maximum weight of 1 tonne, usually 3 or 4 layers), using a sheet of cardboard between each layer and on top of the final layer so as to protect against short circuits; and (d) secure the Lead Acid Batteries, using clear, 25 microns (or greater) thick, hand pallet stretch film in such a manner that the Lead-Acid Batteries cannot leak, slip, fall or be damaged.
- 3.5 Clarity shall state within the Offer Form whether:
- 3.5.1 the Seller shall deliver the Lead-Acid Batteries, carriage paid to the Hub, or such other place of delivery as is agreed in writing by Clarity prior to their delivery; or
- 3.5.2 collected by Clarity from the collection address specified in the Offer Form.
- 3.6 The Due Date shall be specified in the Offer Form or be such other date agreed in writing by the parties, or if no such date is specified or agreed then delivery by the Seller to the Hub shall take place within 28 days of issue date of the Offer Form.
- 3.7 The Seller shall ensure that each consignment of Lead-Acid Batteries, whether delivered or collected, is accompanied by an advice note which shows, among other things, the Offer Form number, the date of the Offer Form, and the description, quantity and estimated weight of the Lead-Acid Batteries delivered or to be collected. In the case of part delivery (or collection), the advice note must indicate the outstanding balance remaining to be delivered (or collected).
- 3.8 Time for delivery shall be of the essence but time for collection shall not.
- 3.9 Unless otherwise stipulated in the Offer Form, deliveries shall only be accepted at the Hub in normal business hours.
- 3.10 If Clarity is to collect the Lead-Acid Batteries from the Seller, the Seller shall at its own cost:
- 3.10.1 stack the packed Packing Boxes or Seller-Packed Pallets in such a manner that they may be readily loaded on to Clarity's collection vehicle; and
- 3.10.2 provide sufficient labour and adequate lifting equipment to load the Packing Boxes or Seller-Packed Pallets on to Clarity's collection vehicle.
- 3.11 If the loading of the Packing Boxes or Seller-Packed Pallets under condition 3.10 takes more than 1 hour, then the Seller shall be liable for any so-called "demurrage charges" that Clarity incurs as a result of such delay.
- 3.12 If the Lead-Acid Batteries are not delivered or available for collection on the Due Date then, without prejudice to any other rights which it may have, Clarity reserves the right to:
- 3.12.1 cancel the Contract in whole or in part;
- 3.12.2 refuse to accept any subsequent delivery of the Lead-Acid Batteries which the Seller attempts to make;
- 3.12.3 recover from the Seller any expenditure reasonably incurred by Clarity in obtaining the Lead-Acid Batteries in substitution from another seller; and
- 3.12.4 claim damages for any additional costs, loss or expenses incurred by Clarity which are in any way attributable to the Seller's failure to deliver or make the Lead-Acid Batteries available on the Due Date.

- 3.13 If the Seller requires Clarity to return any packaging material to the Seller that fact must be clearly stated on any advice note provided to Clarity and any such packaging material shall only be returned to the Seller at the cost of the Seller.
- 3.14 Where Clarity agrees in writing to accept delivery by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by the Seller to deliver any one instalment shall entitle Clarity at its option to treat the whole Contract as repudiated.
- 3.15 The Seller acknowledges and agrees that Clarity shall produce (through the CELNet System) those documents (including but not limited to so-called consignment notes) that are required by law or deemed reasonably necessary by Clarity to evidence the sale and/or transfer of the Lead-Acid Batteries.
- 3.16 The Seller shall at its own cost and expense do or procure to be done all such further acts and things, and execute or procure the execution of all such other documents, as Clarity may from time to time reasonably require in order to give effect to ensure that Clarity complies with laws, licences, permissions, consents, authorisations or any other conditions relating to the sale and/or transfer of the Lead-Acid Batteries.

4. ARRIVAL OF LEAD-ACID BATTERIES AT THE HUB

- 4.1 Application of this condition 4:
 - 4.1.1 Condition 4.2, conditions 4.5 to 4.9 inclusive and condition 4.11 (excluding condition 4.11.2) shall apply where Lead-Acid Batteries arrive at the Hub in Packing Boxes; and
 - 4.1.2 Conditions 4.3 to 4.6 (excluding condition 4.6.3), condition 4.10 and condition 4.11 (excluding condition 4.11.4) shall apply where Lead-Acid Batteries arrive at the Hub in Seller-Packed Pallets.
- 4.2 On arrival of Packing Boxes (containing Lead-Acid Batteries) at the Hub, Clarity or its agent shall:
 - 4.2.1 inspect the Packing Boxes to determine if any need to be repaired or scrapped;
 - 4.2.2 inspect the Lead-Acid Batteries to ensure that they conform with description set out in the Offer Form or advised by Clarity; and
 - 4.2.3 weigh the conforming Lead-Acid Batteries and determine the price payable by Clarity to the Seller by reference to the Offer Form.
- 4.3 On arrival of Seller-Packed Pallets at the Hub, Clarity or its agent shall make a visual check of the Seller-Packed Pallets to ensure they conform with condition 3.1, and are packed in accordance with condition 3.4, and, if so, arrange for their onward transportation to the Reprocessor. Clarity may, at the Seller's cost, return any Seller- Packed Pallets which do not accord with condition 3.4.
- 4.4 Once the Reprocessor has received the Seller-Packed Pallets, it shall:

- 4.4.1 unwrap and inspect the Lead-Acid Batteries to ensure that they conform with description set out in the Offer Form or advised by Clarity; and
- 4.4.2 weigh the conforming Lead-Acid Batteries and determine the price payable by Clarity to the Seller by reference to the Offer Form.
- 4.5 In circumstances where there is a shortfall between the weight indicated in the Seller's advice note and the weight recorded by Clarity or its agent pursuant to condition 4.2.2 or condition 4.4.2 (as applicable), then the latter shall prevail.
- 4.6 Within seven (7) days of the arrival of the Lead-Acid Batteries at the Hub, if condition 4.2 applies, or within seven (7) days of the Reprocessor's receipt of Seller-Packed Pallets, if condition 4.4 applies, Clarity shall advise the Seller by email or through the CELNet System of:
 - 4.6.1 the weight recorded for those Lead-Acid Batteries received which conform to the description set out in the Offer Form (or advised by Clarity);
 - 4.6.2 the weight of non-conforming items;
 - 4.6.3 the quantity of damaged and/or scrapped Packing Boxes (if condition 4.2 applies); and
 - 4.6.4 any Clarity Charges.
- 4.7 Within 24 hours of advice given pursuant to condition 4.6, the Seller shall advise Clarity if the Seller wishes to collect or arrange for the collection of non-conforming items, or if it agrees to their disposal by Clarity, and whether it wishes to reuse the damaged Packing Boxes subject to and in accordance with condition 4.9. If the Seller fails to advise Clarity in accordance with this condition 4.7, then the Seller shall be deemed to have agreed to Clarity disposing of the non-conforming items and scrapping the damaged Packing Boxes.
- 4.8 Where the Seller elects to arrange for the removal of all non-conforming items from the Hub it shall do so at its own cost and shall ensure such removal is effected within 3 days of the Seller's advice given under condition 4.7. If the Seller does not effect such removal within the required period or if, under condition 4.7, it agrees (or has deemed to have agreed) to disposal by Clarity then, Clarity shall, at the Seller's cost, arrange for such disposal of the non-conforming items.
- 4.9 If the Seller elects to re-use damaged Packing Boxes under condition 4.7, it shall be solely responsible for any liability, loss, damage, injury, costs and expenses (including legal and other professional fees and expenses) arising out of or in connection with that reuse and it shall indemnify and hold Clarity harmless from any such liability, loss, damage, injury, costs and expenses.
- 4.10 Where the Reprocessor receives Seller-Packed Pallets containing non-conforming items, the Seller shall be deemed to have agreed to the Reprocessor, for and on behalf of Clarity, disposing of non-conforming items and the Seller shall bear the costs of such disposal.
- 4.11 For the purposes of these Conditions "**Clarity Charges**" shall mean those charges payable by the Seller to Clarity relating to "demurrage charges", the return of non-conforming Seller-Packed Pallets, shortfalls in Lead-Acid Batteries delivered to the Hub, the return or replacement of damaged or scrapped Packing Boxes, and the disposal of non-conforming items, such charges being calculated as follows:
 - 4.11.1 where a "demurrage charge" arises under condition 3.11, an amount equal to all those charges (including, without limitation, labour and transport costs) that Clarity incurs as a result of the delay in loading the Packing Boxes or Seller-Packed Pallets;

- 4.11.2 where the Seller-Packed Pallets do not conform with condition 3.4 an amount equal to all those charges (including, without limitation, labour and transport costs) that Clarity incurs as a result of returning such Seller-Packed Pallets;
- 4.11.3 where there is a shortfall (for any reason whatsoever) in the weight of Lead-Acid Batteries delivered to the Hub or received by the Reprocessor (as advised by Clarity in accordance with condition 4.6) and the estimated weight advised by the Seller under condition 3.7, an amount equal to the product of the shortfall in weight (expressed in tonnes) and the higher of Clarity's then prevailing price for Lead-Acid Batteries or the price stated in the Offer Form, such prices being expressed in £ (Sterling) /tonne;
- 4.11.4 where Clarity advises the Seller under condition 4.6 that the Packing Boxes received at the Hub are damaged or are to be scrapped and if, under condition 4.7, (a) it does not elect to reuse those which are damaged, the full costs of repairing or replacing the relevant Packing Boxes; or (b) it elects to reuse those which are damaged, an amount equal to one hundred and fifteen percent (115%) of all those costs that Clarity incurs (or is likely to incur) in returning the damaged Packing Boxes; and
- 4.11.5 where the Seller elects or is deemed to have elected to Clarity disposing of non-conforming items under condition 4.7 or condition 4.10, an amount equal to one hundred and fifteen percent (115%) of all those costs that Clarity incurs (or is likely to incur) in disposing of or relating to the non-conforming items, such costs include (but are not limited to) disposal and transportation costs, penalties and charges imposed by the Reprocessor, and any costs Clarity incurs (or may incur) in complying with any laws, licences, permissions, consents, authorisations or any other conditions relating to the disposal and transport of non-conforming items.

5. RISK AND PROPERTY

- 5.1 Where the Seller delivers or procures the delivery of Lead-Acid Batteries to the Hub the Lead-Acid Batteries shall be at the Seller's risk until delivery at the Hub.
- 5.2 Where Clarity collects or procures the collection of Lead-Acid Batteries from the Seller, the Lead-Acid Batteries shall be at Clarity's (or its carrier's risk) from the point the Lead-Acid Batteries are loaded on to Clarity's or its carrier's vehicle.
- 5.3 The Seller shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Seller's performance of the Contract, including death or personal injury, loss or damage to property or any other loss. The Seller shall provide Clarity, on request, copies of all insurance policies referred to in this condition 5.3 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 5.4 The Lead-Acid Batteries shall remain the property of the Seller until the earlier of Clarity's payment of an invoice raised by the Seller pursuant to condition 6.3 and delivery of the Lead-Acid Batteries at the Hub.

6. PRICE AND PAYMENT

- 6.1 The price of the Lead-Acid Batteries shall be calculated by reference to rate (£(sterling)/tonne) stated in the Offer Form and unless otherwise agreed in writing by Clarity shall be exclusive of value added tax but inclusive of all other charges.
- 6.2 No variation in the price or extra charges shall be accepted by Clarity.
- 6.3 Where the payment terms set out in the Offer Form provide for payment in advance of delivery of the Lead-Acid Batteries to the Hub, the remainder of this condition 6.3 shall apply.

- 6.3.1 The Seller shall, following formation of the Contract, provide Clarity with a “pro-forma” invoice for the Lead-Acid Batteries to be delivered to the Hub with the amount being payable by Clarity being calculated by reference to the weight stated in the Offer Form, and such “pro-forma” invoice shall not include any amount due in respect of value added tax or any other similar sales tax.
- 6.3.2 Following Clarity providing the Seller with the relevant information under condition 4.6, Clarity may either submit an invoice to the Seller for the aggregate of the Clarity Charges or offset the Clarity Charges against any other amount due to the Seller, whether under the Contract or not.
- 6.3.3 If the Seller is registered for value added tax, it shall, but not before receipt of the relevant information under condition 4.6, submit a valid value added tax invoice showing the amount of VAT due together with details of any pre-payments made by Clarity.
- 6.4 Where the payment terms set out in the Offer Form provide for payment following delivery of the Lead-Acid Batteries to the Hub, Clarity shall, together with the relevant information under condition 4.6, provide the Seller with a remittance note stating the amount due to the Seller for the Lead-Acid Batteries and detailing any deductions made for Clarity Charges. On its receipt of such remittance note, the Seller shall submit an invoice for the amount due to it.
- 6.5 Whether condition 6.3 or condition 6.4 applies, Clarity shall pay the price of the Lead-Acid Batteries in accordance with the payment terms specified in the Offer Form, but time for payment shall not be of the essence of the Contract. If Clarity fails to pay any amount due and payable by it under the Contract, the Seller shall have the right to charge interest on the overdue amount at the rate of 2% per annum of Lloyds Bank Group Plc accruing on a daily basis from the due date to the date of actual payment, whether before or after judgment. The requirement to pay interest under this condition 6.5 shall not apply to payments that Clarity disputes in good faith.
- 6.6 The Seller shall pay any invoice submitted by Clarity under these Conditions within 30 days of the date of Clarity’s invoice, and time for payment shall be of the essence of the Contract.
- 6.7 Without prejudice to any other right or remedy, Clarity reserves the right to set off any amount owing at any time from the Seller to Clarity against any amount payable by Clarity to the Seller under the Contract.

7. CONFIDENTIALITY

- 7.1 The Seller shall not (except as authorised or required by law or as authorised by Clarity), either during its performance of the Contract or at any time after termination of the Contract (howsoever arising):
- 7.1.1 use any Confidential Information; or
- 7.1.2 disclose any Confidential Information to any person, company or other organisation whatsoever.
- 7.2 The restriction in condition 7.1 does not apply to any Confidential Information which is or becomes in the public domain other than through the Seller’s unauthorised disclosure.
- 7.3 The Seller shall:
- 7.3.1 use its best endeavours to prevent the use or communication of any Confidential Information by any person, company or organisation (except in performance of its obligations under the Contract, as required by law or as authorised by Clarity); and
- 7.3.2 inform Clarity immediately upon becoming aware, or suspecting, that any such person, company or organisation knows or has used any Confidential Information.

7.4 The Seller acknowledges that Clarity owns all Confidential Information and the Seller shall, at Clarity's written request, return all Confidential Information on the termination of the Contract.

8. TERMINATION

8.1 At any time prior to the Due Date, Clarity shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Seller written notice whereupon all work in relation to the Contract shall be discontinued and Clarity shall, subject to condition 11.3.2(b), pay to the Seller fair and reasonable compensation.

8.2 Clarity shall have the right at any time by giving notice in writing to the Seller to terminate the Contract immediately if:

8.2.1 the Seller commits a material breach of any of the terms and conditions of the Contract;

8.2.2 any distress, execution or other process is levied upon any of the assets of the Seller;

8.2.3 the Seller (being a natural person) has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Seller or notice of intention to appoint an administrator is given by the Seller or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Seller or for the granting of an administration order in respect of the Seller, or any proceedings are commenced relating to the insolvency or possible insolvency of the Seller;

8.2.4 the Seller ceases or threatens to cease to carry on its business; or

8.2.5 the financial position of the Seller deteriorates to such an extent that in the opinion of Clarity the capability of the Seller adequately to fulfil its obligations under the Contract has been placed in jeopardy.

8.3 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of Clarity accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

9. REMEDIES

Without prejudice to any other right or remedy which Clarity may have, if any Lead-Acid Batteries are not supplied in accordance with, or the Seller fails to comply with, any of the terms of the Contract Clarity shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Lead-Acid Batteries have been accepted by Clarity:

9.1.1 to rescind the Contract;

9.1.2 to reject the Lead-Acid Batteries (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Lead-Acid Batteries so returned shall be paid immediately by the Seller;

9.1.3 to give the Seller the opportunity at the Seller's expense to supply replacement Lead-Acid Batteries and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;

- 9.1.4 to refuse to accept any further deliveries of the Lead-Acid Batteries but without any liability to the Seller;
- 9.1.5 where Clarity has paid for the Lead-Acid Batteries in advance, to have such sums refunded by the Seller; and
- 9.1.6 to claim such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract.

10. INDEMNITY

- 10.1 The Seller shall keep Clarity indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, loss of contract, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by Clarity as a result of or in connection with the direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Contract by the Seller.
- 10.2 The provisions of this condition 10 shall survive termination of this agreement, however arising.

11. LIMITATION OF LIABILITY

- 11.1 This condition 11 sets out the entire financial liability of Clarity (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Seller in respect of:
 - 11.1.1 any breach of the Contract;
 - 11.1.2 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 11.2 Nothing in the Contract shall limit or exclude the liability of Clarity for:
 - 11.2.1 death or personal injury resulting from negligence; or
 - 11.2.2 fraud or fraudulent misrepresentation.
- 11.3 Subject to condition 11.2,
 - 11.3.1 Clarity shall not be liable to the Seller whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any loss of profit, loss of goodwill, loss of business, loss of business opportunity, loss of anticipated saving, loss or corruption of data or information, or special, indirect or consequential damage or loss suffered by the Seller that arises under or in connection with the Contract; and
 - 11.3.2 Clarity's total liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited as follows: (a) for non-payment of invoices for Lead-Acid Batteries purchased, to the amount unpaid together with any interest due on such amount under condition 6.5; (b) for termination under condition 8.1, to £250; or (c) for any other type of liability, to the estimated value of the Lead-Acid Batteries as indicated in the Offer Form.

12. ASSIGNMENT

- 12.1 The Seller shall not be entitled to assign the Contract or any part of it without the prior written consent of Clarity.
- 12.2 Clarity may assign the Contract or any part of it to any person, firm or company.

13. COMPLIANCE: ANTI-BRIBERY, ANTI-CORRUPTION AND ANTI-SLAVERY

13.1 The Seller shall:

13.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);

13.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

13.1.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate;

13.1.4 notify Clarity (in writing) if it becomes aware of any breach of condition 13.1.1, or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage in connection with the performance of the Contract; and

13.1.5 immediately notify Clarity (in writing) if a foreign public official becomes an officer or employee of the Seller or acquires a direct or indirect interest in the Seller and the Seller warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of the Contract).

13.2 For the purpose of condition 13, the meaning of **adequate procedures** and **foreign public official** and whether **a person is associated with another person** shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause Error! Reference source not found. a person associated with the Seller includes but is not limited to any subcontractor of the Seller.

13.3 In performing its obligations under the Contract, the Seller shall:

13.3.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015;

13.3.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK;

13.3.3 include in contracts with its direct subcontractors and suppliers provisions which are at least as onerous as those set out in this condition 13;

13.3.4 notify Clarity as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Contract;

13.3.5 maintain a complete set of records to trace the supply chain of all Lead-Acid Batteries provided to Clarity in connection with the Contract; and permit Clarity and its third party representatives to inspect the Seller's premises, records, and to meet the Seller's personnel to audit the Seller's compliance with its obligations under this condition 13.

13.4 The Seller represents and warrants that at the date of the Contract it not has been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

13.5 Breach of this condition 13 shall be deemed a material breach under condition 8.2.1.

14. UNFORSEEN CIRCUMSTANCES

Clarity reserves the right to defer the date of delivery, collection or payment or to cancel

the Contract or reduce the volume of the Lead-Acid Batteries ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond its reasonable control including, without limitation, acts of God, adverse weather, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), closure of the Hub or any reprocessing plant used by Clarity, or restraints or delays affecting Clarity's carriers.

15. GENERAL

- 15.1 Each right or remedy of Clarity under the Contract is without prejudice to any other right or remedy of Clarity whether under the Contract or not.
- 15.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 15.3 Save for notices given under condition 2.3 or condition 2.4, any notice to be given under these Conditions must be in writing and delivered personally, sent by pre-paid first class post or other next day delivery service in either case providing proof of delivery, email, or fax to the address set out in this condition 14.3. The address for service of notices to Clarity is Clarity's registered office or such other address as otherwise notified to the Seller from time to time. Clarity's facsimile number and email address for the service of notices are: 0845 129 7178 and info@clarityenv.eu, respectively. The address or email address for service of notices to the Seller will be as set out in the Offer Form and for service by fax to its main fax number or such other addresses as otherwise notified from time to time. A notice will be deemed to have been served: (a) if personally delivered, at the time of delivery; (b) if posted by first class post or other next day delivery service, two Business Days after posting; (c) if sent by fax before 5pm on a Business Day, then that Business Day, or otherwise on the next Business Day; or, if sent by email, on automatic return delivery receipt of the email to the sender whether or not read or opened by the party receiving the notice.
- 15.4 Failure or delay by Clarity in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 15.5 Any waiver by Clarity of any breach of, or any default under, any provision of the Contract by the Seller shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 15.6 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 15.7 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.