

DOVISTA UK – CONDITIONS OF SALE

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1. Definitions:

Buyer: the company who purchases Deliverables from DOVISTA UK.
Buyer Materials: all documents, information, items, and materials in any form, whether owned by the Buyer, the Buyer's architect or a third party, which are provided by the Buyer to DOVISTA UK in connection with the Deliverables.
Conditions: DOVISTA UK's terms and conditions of sale set out in this document.
Contract: the contract between DOVISTA UK and the Buyer for the supply of Deliverables in accordance with clause 2 of these Conditions.
control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be interpreted accordingly.
Deliverables: the Products and/or Design as the case may be.
Delivery: the time at which the Products are deemed to be delivered to the Buyer under clause 5.2.
Design: the designs, drawings, calculations, and/or ideas supplied by DOVISTA UK to the Buyer solely in accordance with the DOVISTA Design & Engineering Service
Design Programme: the programme that is provided to the Buyer in DOVISTA UK's written acceptance of the Order in accordance with clause 2.3.
Design Specification: the description or specification for the Design provided in writing by DOVISTA UK to the Buyer.
DOVISTA Design & Engineering Service: the design and engineering service set out in the Design Specification.
DOVISTA UK: DOVISTA UK Limited, registered in England and Wales with company number 02332292 whose registered office address is The Forum, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire, England, PE29 6XU.
Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trademarks, business and domain names, rights in get-up, goodwill and the right to sue for infringement, unfair competition and passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Order: the Buyer's order for the supply of the Deliverables, as set out in the Buyer's letter of intent, purchase order or the Buyer's written acceptance of DOVISTA UK's quotation, as the case may be.
Products: the goods (or any part of them) set out in the Order that DOVISTA UK has agreed to supply to the Buyer.
Products Specification: the specification of the Products, including any relevant plans or drawings, which is agreed in writing by the Buyer and DOVISTA UK.
Warranty Terms: DOVISTA UK's warranty terms, available at https://velfac.co.uk/globalassets/02-velfac-uk/04-customer-service/05-warranty/velfac-product-warranty_dvauk.pdf, and as amended from time to time.
Working Day: a day other than a Saturday, Sunday, or public holiday in England, when banks in London are open for business.

1.2. Interpretation

- 1.2.1. A reference to legislation or a legislative provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that legislation or legislative provision.
- 1.2.2. Any words following the terms **including**, **include**, **in particular**, or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.3. A reference to **writing** or **written** includes emails.

2. Basis of Contract

- 2.1. These Conditions shall apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice, or course of dealing.
- 2.2. The Order constitutes an offer by the Buyer to purchase the Deliverables in accordance with these Conditions. The Buyer is responsible for ensuring that any documents, including but not limited to the Order, the Design Specification and the Products Specification submitted by the Buyer are complete and accurate.
- 2.3. The Order shall only be deemed to be accepted when DOVISTA UK issues written recognition of the Order, at which point the Contract shall come into existence (**Commencement Date**). The acceptance of any Order shall be at DOVISTA UK's sole discretion.
- 2.4. The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with, or contained in any documents of the Buyer that is inconsistent with these Conditions.
- 2.5. Any samples, drawings, descriptive matter, or advertising produced by DOVISTA UK, and any descriptions of the Products contained in DOVISTA UK's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract nor have any contractual force.
- 2.6. Any quotation given by DOVISTA UK shall not be legally binding or constitute an offer and will remain valid for a period of 60 days from its date of issue (unless withdrawn before).
- 2.7. In the event of any cancellation of the Contract by the Buyer, the Buyer shall indemnify DOVISTA UK in full against any and all costs (including costs of all labour and materials lost), losses (including loss of profit), damages, charges and expenses suffered or incurred by DOVISTA UK as a result of the cancellation.
- 2.8. Any changes or amendments to the Order, once DOVISTA UK has accepted the Order, will be subject to DOVISTA UK's written acceptance only and may cause a change in the Contract Price. The Buyer shall be liable for any consequential delay due to any requested changes or amendments and shall indemnify DOVISTA UK in full against any and all costs (including costs of all labour and materials lost), losses (including loss of profit), damages, charges and expenses suffered or incurred by DOVISTA UK as a result of the change. The Buyer agrees that Products placed into manufacture cannot be revised.
- 2.9. The Warranty Terms, as amended from time to time, form part of the Contract and are hereby incorporated by reference. In the event of any conflict between these Conditions and the Warranty Terms with respect to warranty periods as referred to in clause 6.1, the provisions of the Warranty Terms shall prevail.

3. Price and Payment

- 3.1. The price for the Deliverables shall be the price as set out in DOVISTA UK's confirmation of order document (**Contract Price**).
- 3.2. DOVISTA UK will apply for credit insurance for the Order. DOVISTA UK reserves the right to amend the payment terms contained in clause 3.6 and/or cease to supply the Products to the Buyer if DOVISTA UK's insurers do not provide sufficient insurance cover for the Order. The insurance cover for the Order may be subject to change during fulfilment of the Order.
- 3.3. Where DOVISTA UK is unable to secure adequate credit insurance on the Buyer, DOVISTA UK shall issue an invoice for a non-refundable deposit of a percentage of the Contract Price as DOVISTA UK in its sole discretion deems appropriately payable by the Buyer prior to commencement of manufacture of the Products. DOVISTA UK shall issue a further invoice for the balance of the Contract Price payable by the Buyer prior to despatch of the Products.
- 3.4. DOVISTA UK reserves the right to increase the price of the Products, by giving notice to the Buyer at any time before Delivery, to reflect any increase in the cost of the Products to DOVISTA UK that is due to:
 - 3.4.1. any factor beyond the control of DOVISTA UK (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials, and other manufacturing costs);
 - 3.4.2. any request by the Buyer to change the delivery date(s), quantities or types of Products ordered, or the Products Specification; or
 - 3.4.3. any delay caused by any instructions of the Buyer in respect of the Deliverables or failure of the Buyer to give DOVISTA UK adequate or accurate information or instructions in respect of the Deliverables.
- 3.5. In respect of Products, DOVISTA UK shall invoice the Buyer on or at any time after completion of Delivery. In respect of Design, DOVISTA UK shall invoice the Buyer on completion of the Design.
- 3.6. The Buyer shall pay each invoice submitted by DOVISTA UK:
 - 3.6.1. within 30 days of the date of the invoice or in accordance with any credit terms agreed by DOVISTA UK and confirmed in writing to the Buyer; and
 - 3.6.2. in full and in cleared funds to a bank account nominated in writing by DOVISTA UK, and time for payment shall be of the essence of the Contract.
- 3.7. All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). The Buyer shall, on receipt of an invoice from DOVISTA UK, pay to DOVISTA UK such additional amounts in respect of VAT as are chargeable on the supply of the Deliverables, at the same time as payment is due for the supply of the Deliverables.

- 3.8. If the Buyer fails to make a payment due to DOVISTA UK under the Contract by the due date, then, without limiting DOVISTA UK's remedies under clause 9.2, the Buyer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 3.8 will accrue each day at 5% a year above the Barclay's Bank plc base rate from time to time, but at 5% a year for any period when that base rate is below 0%. The Buyer may also be held liable for any legal fees incurred by DOVISTA UK in the process of attempting to recover the debt owed by the Buyer.
- 3.9. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
4. **Products**
 - 4.1. The Products are described in the Products Specification.
 - 4.2. To the extent that the Products are to be manufactured in accordance with a Products Specification supplied by the Buyer, the Buyer shall indemnify DOVISTA UK against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by DOVISTA UK arising out of or in connection with any claim made against DOVISTA UK for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with DOVISTA UK's use of the Products Specification. This clause 4.2 shall survive termination of the Contract.
 - 4.3. DOVISTA UK reserves the right to amend the Products Specification if required by any applicable statutory or regulatory requirement, and DOVISTA UK shall notify the Buyer in any such event.
5. **Delivery**
 - 5.1. DOVISTA UK or its nominated carrier shall deliver the Products to the location set out in the Order or such other location as the parties may agree in writing (**Delivery Location**) at the dates and time agreed by the parties (**Delivery Date**).
 - 5.2. The Products shall be deemed delivered on Delivery of the Products by DOVISTA UK's nominated carrier to the Delivery Location.
 - 5.3. For the avoidance of doubt, Delivery does not include the offloading of the Products and DOVISTA UK shall not be responsible for offloading the Products, which shall be the responsibility of the Buyer. However, DOVISTA UK will unload the Products to ground level when HIAB vehicles are used (at the cost of the Buyer) but will not be responsible for vertical distribution.
 - 5.4. Any dates quoted for Delivery of the Products are approximate only, and the time of Delivery is not of the essence. DOVISTA UK shall not be liable for any delay in Delivery of the Products that is caused by a Force Majeure Event or the Buyer's failure to provide or delay in providing DOVISTA UK with adequate delivery instructions or any other instructions/information that are relevant to the supply of the Deliverables.
 - 5.5. If the Buyer fails to accept Delivery of the Products on the Delivery Date, then except where such failure or delay is caused by DOVISTA UK's failure to comply with its obligations under the Contract in respect of the Products, DOVISTA UK shall store the Products until actual Delivery takes place and charge the Buyer for all related costs and expenses (including storage costs and insurance).
 - 5.6. If two months after the Delivery Date the Buyer has not accepted actual Delivery of the Products, DOVISTA UK may resell or otherwise dispose of part of or all the Products and, after deducting reasonable storage, selling and/or disposal costs, charge the Buyer for any shortfall below the price of the Products.
 - 5.7. DOVISTA UK may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in Delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.
 - 5.8. Unless otherwise agreed in writing, DOVISTA UK shall package the Products at its sole discretion. All windows and doors that form part of the Products will be delivered on shrink-wrapped pallets. The shrink-wrap is not weatherproof, and it is the responsibility of the Buyer to store the windows in dry conditions. Any additional packaging requested by the Buyer shall be at the Buyer's expense and may delay Delivery of the Products. In the event the windows are exposed to adverse conditions due to the improper storage conditions, DOVISTA UK reserves the right to revoke or reduce any warranty provided for the Products affected by such improper storage conditions.
 - 5.9. The Buyer shall inspect the Products on Delivery and will mark the carrier's receipt note with details of any shortage or visible damage in transit. In addition, the Buyer shall notify DOVISTA UK in writing within five calendar days of any shortage of Products or damage in transit discoverable by a physical inspection of the pallets.
 - 5.10. All pallets on which the Products are delivered are non-returnable and must be disposed or recycled at the cost of the Buyer.
6. **Quality of Products**
 - 6.1. DOVISTA UK warrants that on Delivery, the Products shall conform in all material respects with the Products Specification; and be free from material defects in design, material, and workmanship for the applicable warranty periods specified in the Warranty Terms.
 - 6.2. Subject to clause 6.3, if:
 - 6.2.1. the Buyer gives notice in writing to DOVISTA UK: (i) in the case of a defect that is apparent on normal visual inspection in accordance with clause 5.9 or (ii) in the case of a latent defect, within the applicable warranty period set out in the Warranty Terms and a reasonable time of the latent defect having become apparent; and
 - 6.2.2. DOVISTA UK is given a reasonable opportunity of examining such Products and confirm the Products are defective,
DOVISTA UK shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full. DOVISTA UK accepts no responsibility for any associated costs of removing defective Products and reinstating replacement Products, including disposal of defective Products.
 - 6.3. DOVISTA UK shall not be liable for the Products' failure to comply with the warranty set out in clause 6.1 if:
 - 6.3.1. the Buyer makes any further use of such Products after giving notice in accordance with clause 5.9 and clause 6.2;
 - 6.3.2. the defect arises because the Buyer failed to follow DOVISTA UK's oral or written instructions as to the storage, transportation, installation, use or maintenance of the Products or (if there are none) good trade practice regarding the same;
 - 6.3.3. the defect arises as a result of DOVISTA UK following any drawing, design or specification supplied by the Buyer;
 - 6.3.4. the Buyer alters or repairs such Products without the written consent of DOVISTA UK;
 - 6.3.5. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
 - 6.3.6. the Products differ from the Products Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
 - 6.4. Except as provided in this clause 6, DOVISTA UK shall have no liability to the Buyer in respect of the Products' failure to comply with the warranty set out in clause 6.1.
 - 6.5. These Conditions shall apply to any repaired or replacement Products supplied by DOVISTA UK.
7. **Title and risk**
 - 7.1. The risk in the Products shall pass to the Buyer on completion of Delivery (which will not include offloading), thereafter the Buyer shall be responsible for the price of the relevant Products in the event of loss or damage arising from any cause whatsoever. Damage caused during off-loading shall be the Buyer's responsibility. The Buyer shall be responsible for the protection and secure storage of the Products upon Delivery to the Delivery Location.
 - 7.2. Title to the Products shall not pass to the Buyer until the earlier of:
 - 7.2.1. DOVISTA UK receives payment in full (in cash or cleared funds) for the Products and any other goods that DOVISTA UK has supplied to the Buyer in respect of which payment has become due, in which case title to the Products shall pass at the time of payment of all such sums; or
 - 7.2.2. the Buyer incorporates the Products in or with any other product or product; or
 - 7.2.3. the Buyer resells the Products, in which case title to the Products shall pass to the Buyer at the time specified in clause 7.4.
 - 7.3. Until title to the Products has passed to the Buyer, the Buyer shall:
 - 7.3.1. store the Products separately from all other goods held by the Buyer so that they remain readily identifiable as DOVISTA UK's property;
 - 7.3.2. not remove, deface, or obscure any identifying mark or packaging on or relating to the Products;
 - 7.3.3. maintain the Products in satisfactory condition and keep them insured against all risks for their full price on DOVISTA UK's behalf from the date of Delivery;
 - 7.3.4. notify DOVISTA UK immediately if it becomes subject to any of the events listed in clause 12.1; and
 - 7.3.5. give DOVISTA UK such information as DOVISTA UK may reasonably require from time to time.
 - 7.4. Subject to clause 7.5, the Buyer may resell or use the Products in the ordinary course of its business (but not otherwise) before DOVISTA UK receives payment for the Products. However, if the Buyer resells the Products before that time:
 - 7.4.1. it does so as principal and not as DOVISTA UK's agent; and

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- 7.4.2. title to the Products shall pass from DOVISTA UK to the Buyer immediately before the time at which resale by the Buyer occurs.
- 7.5. At any time before title to the Products passes to the Buyer, DOVISTA UK may:
- 7.5.1. by notice in writing, terminate the Buyer's right under clause 7.4 to resell the Products or use them in the ordinary course of its business; and
- 7.5.2. require the Buyer to deliver up all Products in its possession that have not been resold, or irrevocably incorporated into another product and if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Products are stored in order to recover them.
- 8. Design**
- 8.1. Design services are separate and are only undertaken by DOVISTA UK at an additional cost. The Design does not form part of the Deliverables if the Buyer has agreed to pay for the Products only.
- 8.2. DOVISTA UK shall provide the Design to the Buyer in accordance with the Design Specification in all material respects.
- 8.3. DOVISTA UK shall use all reasonable endeavours to meet any performance dates for the Design specified in the Design Programme subject to the Buyer's fulfilment of Clause 9.1.4, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Design.
- 8.4. DOVISTA UK reserves the right to amend the Design Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Design, and DOVISTA UK shall notify the Buyer in any such event.
- 8.5. DOVISTA UK warrants to the Buyer that the Design will be provided using reasonable care and skill.
- 8.6. The Design shall only involve completion of the design of the windows that form part of the Products by adding detail to the Buyer's design and the Buyer shall be responsible for the overarching design.
- 8.7. The date of completion of the Design will be fixed by DOVISTA UK.
- 9. Buyer's obligations**
- 9.1. The Buyer shall:
- 9.1.1. ensure that the terms of the Order and any information it provides in either or both the Design Specification and the Products Specification or otherwise in general are complete and accurate, co-operate with DOVISTA UK in all matters relating to the Deliverables.
- 9.1.2. be responsible for the acceptance of, and the successful integration of, the Design and/or the Products, with the designs, specification, and proposals of others and of other parts of the project for which the Design and/or the Products are intended.
- 9.1.3. provide (within the required period) DOVISTA UK with such information and materials as DOVISTA UK may reasonably require to supply the Design and/or Products and ensure that such information is complete and accurate in all material respects.
- 9.1.4. obtain and maintain all necessary licences, permissions and consents which may be required for the Design before the date on which the Design is to start and/or the incorporation of the Products into the main works before the Delivery of the Products.
- 9.1.5. ensure that the Products are appropriate for their intended application.
- 9.1.6. comply with all applicable laws, including health and safety laws.
- 9.1.7. comply with any additional obligations as set out in the Design Specification or the Products Specification or both.
- 9.1.8. If DOVISTA UK's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation (**Buyer Default**):
- 9.2.1. without limiting or affecting any other right or remedy available to it, DOVISTA UK shall have the right to suspend performance of the Contract until the Buyer remedies the Buyer Default, and to rely on the Buyer Default to relieve it from the performance of any of its obligations in each case to the extent the Buyer Default prevents or delays DOVISTA UK's performance of any of its obligations;
- 9.2.2. DOVISTA UK shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from DOVISTA UK's failure or delay to perform any of its obligations as set out in this clause 9.2; and
- 9.2.3. the Buyer shall reimburse DOVISTA UK on written demand for any costs or losses sustained or incurred by DOVISTA UK arising directly or indirectly from the Buyer Default.
- 9.3. The Buyer shall indemnify, and keep indemnified, DOVISTA UK from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by DOVISTA UK as a result of or in connection with the Buyer's breach of any of the Buyer's obligations under the Contract.
- 10. Intellectual property rights**
- 10.1. All Intellectual Property Rights in or arising out of or in connection with the Deliverables (excluding the Buyer Materials) a) shall remain the exclusive property of DOVISTA UK or its affiliated companies or, where applicable, the third-party licensor from whom DOVISTA UK derives the right to use them and b) must not be copied or shown to any third party without the prior written consent of DOVISTA UK.
- 10.2. The Buyer grants DOVISTA UK a fully paid-up, non-exclusive, royalty-free, irrevocable, non-transferable licence (including the right to grant sub-licences to permitted subcontractors of DOVISTA UK) to use the Buyer's Intellectual Property Rights and to copy and modify any materials provided by the Buyer to DOVISTA UK solely for the purpose of providing the Deliverables to the Buyer.
- 10.3. The Buyer shall indemnify DOVISTA UK in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by DOVISTA UK arising out of or in connection with any claim made against DOVISTA UK, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the receipt or use in the performance of the Contract of the Buyer Materials. This clause 10.3 shall survive termination of the Contract.
- 11. Limitation of liability**
- 11.1. References to liability in this clause 11 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 11.2. Nothing in the Contract limits any liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation, breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982, defective products under the Consumer Protection Act 1987, or any liability that legally cannot be limited.
- 11.3. Subject to clause 11.2, DOVISTA UK's total aggregate liability to the Buyer, whether in contract, tort (including negligence), misrepresentation, restitution, or otherwise arising in connection with the performance, non-performance, or contemplated performance of the Contract, shall be limited to the total sums paid by the Buyer for the Products under the Contract.
- 11.4. The cap on DOVISTA UK's liability under clause 11.3 shall be reduced by amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for overdue payment.
- 11.5. Subject to clauses 11.1 and 11.2, DOVISTA UK shall be under no liability to the Buyer for any loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of or damage to goodwill, wasted expenditure, and/or indirect or consequential loss (including legal expenses) resulting from any liability arising under or in connection with the Contract.
- 11.6. DOVISTA UK shall not be held liable for any claim or loss directly or indirectly arising out of, or in any way connected with the combustibility, fire safety or fire performance of all façade materials including but not limited to external cladding to include composite panels, high pressure laminate, associated core, filler and insulation, signage and insulation, also including internal ductwork, fire stopping barriers and doors and fire protection systems.
- 11.7. DOVISTA UK has given commitments as to compliance of the Deliverables with relevant specifications in clause 6 and clause 8. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 and 12 to 16 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 11.8. This clause 11 shall survive termination of the Contract.
- 12. Termination and Suspension**
- 12.1. 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:
- 12.1.1. 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), obtaining a moratorium, 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;
- 12.1.2. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- 12.1.3. the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 12.2. Without affecting any other right or remedy available to it, DOVISTA UK may terminate the Contract, suspend the Design or all further deliveries of Products under the Contract or any other contract between the Buyer and DOVISTA UK, or require any payment in advance or satisfactory security for further deliveries under the Contract with immediate effect by giving written notice to the Buyer if:
- 12.2.1. the Buyer fails to pay any amount due under the Contract on the due date for payment; or
- 12.2.2. there is a change of control of the Buyer; or
- 12.2.3. the Buyer commits a material breach of the Contract, and such breach is either not remediable or not remedied within 7 days of being notified in writing to do so; or
- 12.2.4. DOVISTA UK reasonably believes that the Buyer is about to become subject to any of the events listed in Clause 12.1.1 to 12.1.3.
- 12.3. At any time, for any reason whatsoever, the Contract may be terminated effective immediately upon the parties' mutual agreement.
- 12.4. On termination or suspension of the Contract, the Buyer shall immediately pay to DOVISTA UK all of DOVISTA UK's outstanding unpaid invoices and interest and, in respect of Deliverables supplied for which no invoice has been submitted, DOVISTA UK shall submit an invoice, which shall be payable by the Buyer immediately on receipt.
- 12.5. The Contract may be terminated by DOVISTA UK giving not less than 14 days' notice in writing to the Buyer at any time.
- 12.6. Termination or expiry of the Contract shall not affect any rights, remedies, obligations, and liabilities of the parties that have accrued up to the date of termination or expiry. Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.
- 13. Confidentiality**
- 13.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients, or suppliers of the other party except as permitted by clause 13.2.
- 13.2. Each party may disclose the other party's confidential information:
- 13.2.1. to its employees, officers, representatives, contractors, subcontractors, or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, or advisers to whom it discloses the other party's confidential information comply with this clause 14; and
- 13.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 14. Data Protection**
- 14.1. In this clause 14, **Controller, Processor, Personal Data, and processing** have the meanings given in the **Data Protection Legislation**. **Data Protection Legislation** means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), **EU GDPR** means the General Data Protection Regulation ((EU) 2016/679), and **Applicable Laws** means a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom and b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which DOVISTA UK is subject.
- 14.2. Both parties will comply with all applicable requirements of the Applicable Laws. This clause 14 is in addition to, and does not relieve, remove, or replace, a party's obligations or rights under the Applicable Laws.
- 14.3. Without prejudice to the generality of clause 14.2, for the purposes of the Data Protection Legislation, the Buyer is the Controller and DOVISTA UK is the Processor. The Buyer consents to (and shall procure all required consents, from its personnel, representatives and agents, in respect of) all actions taken by DOVISTA UK in connection with the processing of Personal Data, provided DOVISTA UK takes measures required for the processing of Personal Data in compliance with Article 28 of UK GDPR.
- 14.4. Insofar DOVISTA UK processes any Personal Data in direct relation to an individual for the fulfilment of an Order, the parties acknowledge that for the purposes of the Data Protection Legislation, DOVISTA UK is a Controller and DOVISTA UK will process Personal Data in accordance with the then-current version of DOVISTA UK's privacy policy available at <https://dovista.com/privacy/> (**Privacy Policy**).
- 15. General**
- 15.1. **Assignment.** DOVISTA UK may assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract or exercise any of its rights through, any associated company or sub-contractor. The Buyer shall not assign or transfer any benefit of the Contract without DOVISTA UK's prior written consent.
- 15.2. **Force majeure.** Without prejudice to any other provision of these Conditions, DOVISTA UK shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performance or any failure to perform any of the obligations of DOVISTA UK under the Contract due to circumstances beyond its reasonable control (Force Majeure Event), including without limitation, terrorist attack, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, collapse of buildings, fire, strikes, flood or storm, explosion, accident, civil disturbance, any law or action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, governmental restrictions and/or guidelines including but not limited to statutory guidance on pandemics and epidemics, shortage or unavailability of stock or manpower, industrial action, any labour or trade dispute, strikes, non-performance by suppliers or subcontractors and transportation delays.
- 15.3. **Notices.** All communications between the parties about the Contract must be in writing delivered by hand, sent by pre-paid first-class post to the other party's registered office in the United Kingdom, or sent to the party at the email address(es) as that party may notify the other party. Notices shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first-class post, two Working Days after posting (exclusive of the day of posting); and if delivered by email, at the time of transmission. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 15.4. **Severance.** If any provision or part-provision of the Contract 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 the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 16.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 15.5. **Waiver.** Except as set out in clause 2.4, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 15.6. **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 15.7. **Entire agreement.** The Contract constitutes the entire agreement between the parties, and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.
- 15.8. **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 15.9. **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 15.10. **Governing law and Jurisdiction.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. If any dispute arises out of or in relation to the Contract, the parties will use their reasonable endeavours to resolve that dispute amicably by discussion. Either party may at any time refer such a dispute to adjudication. Any adjudication shall be carried out pursuant to Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998. The Adjudicator shall be nominated at the request of either party pursuant to the Royal Institute of Chartered Surveyors. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.