TERMS & CONDITIONS OF SALE – AS OF 06/SEP/2022

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement unless the context otherwise requires the following terms shall have the meanings given to them below:

“Agreement”	means the Quotation and the terms and conditions set out herein.
"Business Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the city of London.
"Commencement Date"	means the date set out in the Quotation for the Works to commence.
“Charges”	means the amounts payable for the Works as specified in the Quotation or as otherwise confirmed in writing by Trimline.
“Completion Date”	the date of practical completion of the Works in accordance with this Agreement.
“Confidential Information”	information that ought to be considered as confidential and may include information whose disclosure would, or would be likely to, prejudice the commercial interests of any person, trade secrets, intellectual property rights, know-how of either party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1988.
"Emergency"	means an event causing or, in the reasonable opinion of either party, threatening to cause death or injury to any individual, or serious disruption to the lives of a number of people or extensive damage to property, or contamination of the environment, or which prevents the Works operating under normal circumstances and requiring the mobilization of emergency services.
“Expenditure”	means all costs, charges, expenses and outgoings reasonably and properly incurred by Trimline in delivering the Works (including any additional works or services) pursuant to the terms of this Agreement.
"Force Majeure Event"	means any event beyond the reasonable control of the parties and shall include, but not be limited to environmental conditions, weather including the state of the sea and its condition, an act of god, war, civil war, armed conflict or terrorism, government pre-emption of materials or services in connection with a public emergency, nuclear, chemical or biological contamination unless the source or cause of the contamination is as a result of the acts or omissions of the Customer or pressure waves caused by devices travelling at supersonic speeds and which directly causes either party (the "Affected Party") to be unable to comply with all or a material part of its obligations under this Agreement;
"Good Industry Practice"	means that degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced operator engaged in the same type of services as the Works under this Agreement and under the same or similar circumstances;
"Intellectual Property Rights"	means any and all patents, trademarks, service marks, copyright, database rights, moral rights, rights in a design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attached thereto which is created, brought into existence, acquired, used or intended to be used for the purposes of providing the Works and/or otherwise for the purposes of this Agreement;
“Materials”	means those goods and materials that are to be supplied by Trimline as part of the Works and which are set out in the Quotation;
"Necessary Consents"	means all permits, licenses, permissions, consents, approvals, certificates and authorizations (whether statutory or otherwise) which are required for the performance of any of the Customer's obligations under this Agreement, whether required in order to comply with laws or legislation or as a result of the rights of any third party;
“Quotation”	means the quotation, proposal, bid pack, project brief or other document submitted and agreed by Trimline which sets out the Works and Charges and the applicable dates for commencement and completion of the Works.
“Schedule of Works”	means the schedule of Works as set out in the Quotation or otherwise agreed by the parties in writing.
"Subcontract"	means a contract for the supply of materials, services or works entered into between Trimline and a Subcontractor;
“Subcontractor”	means any person engaged by Trimline from time to time to provide all or part of the Works;
"Tax"	means any kind of tax, duty, levy or other charge (other than VAT) whether or not similar to any in force at the date of this Agreement;
"VAT"	means value added tax;
“Vessel”	means the ship or vessel specified in the Quotation; and
“Works”	means the refurbishment, maintenance, installation and/or other services or works specified in the Quotation.

1.2 Within this Agreement, unless the contrary intention appears:

1.2.1 this Agreement includes the Schedules;

1.2.2 references to statutes shall include any statutory modification, re-enactment, extension, consolidation or replacement thereof; and

1.2.3 a “party” shall mean a party to this Agreement and “parties” shall mean both of them.

1.3 In the event of any inconsistency between the provisions of the body of this Agreement and the Schedules or between any of the Schedules, the conflict shall be resolved according to the following order of priority:

1.3.1 the Quotation as expressly agreed by Trimline; and

1.3.2 these terms and conditions.

2. APPOINTMENT OF TRIMLINE

2.1 The Customer hereby appoints Trimline and Trimline hereby accepts such appointment to deliver the Works as set out in the Quotation in accordance with this Agreement. For each Schedule of Works, the parties shall appoint an authorised representative in accordance with clause 25 with sufficient authority to represent and act on its behalf in all matters relating to the Schedule of Works and these Terms.

3. WORKS TO BE PERFORMED BY TRIMLINE

3.1 With effect from the Commencement Date until completion of the Works (or termination of this Agreement, whichever is earlier) (“Works Period”) and in consideration of the Customer agreeing to pay the Charges, Trimline agrees that it will provide the Works to a standard that is in all respects in accordance with this Agreement and in particular the Schedule of Works.

3.2 Throughout the Works Period, Trimline shall:

3.2.1 perform the Works in accordance with the terms of this Agreement;
3.2.2 perform the Works in accordance with Good Industry Practice;
3.2.3 comply with all applicable laws; and
3.2.4 comply with all reasonable instructions of the Customer's representative (appointed in accordance with clause 24) ("Customer's Representative") acting in accordance with this Agreement and subject to Clause 7.

3.3 Subject to obtaining access to the Vessel, Works shall be carried out between the hours of 07:00 and 19:00 and may be completed any day of the week. Requests or requirements to carry out Works outside of these hours shall be subject to additional costs charged to the Customer.

4. SURVEYS AND QUOTATION

4.1 The Customer shall provide all access required by Trimline to the place of where the Works will be performed in order to carry out a full and intrusive survey of the Works environment.

4.2 All Quotations are valid for thirty (30) days from the date of issue unless otherwise stated in the Quotation and are dependent on the Customer confirming the contract for Works in line with the risk timetable highlighted in the Quotation.

4.3 Notwithstanding any other term of this Agreement, Trimline may (without consequence or penalty) amend any part of a Quotation, the Charges and/or the Schedule of Works, irrespective of whether the same have been accepted by the Customer or not, or Trimline may suspend or cease to supply any Works, if any information, data, drawings, measurements, calculations, survey, condition, access or materials supplied or granted to it, or which are obtained by Trimline (whether by its own accord or not) is discovered to be incorrect, incomplete or delayed. To this end, the Customer acknowledges and agrees that even intrusive surveys carried out on any Vessel by Trimline or the Customers surveyors, will only provide a sample based result of the Vessel's condition, structure, fixtures or fittings, and accordingly, the full extent of Works required cannot be accurately determined prior to the Works having been completed. Trimline shall notify the Customer of any condition, defect, or other matter which has not been accounted for in any Quotation or Schedule of Works within a reasonable period of discovery and assessment and shall submit to the Customer a list of required changes to the Works or Charges ("Change"). If the is not prepared to accept the Change(s) required by Trimline, then Trimline may withdraw its Quotation or suspend or cease Works, without penalty and the Customer shall be liable for the cost of any Works which may have been performed to that date together with any other binding commitments, including but not limited to the cost of engaging any sub-contractor or other third party and the cost of any materials, goods or supplies ordered which cannot be returned without cost or other consequence.

4.4 Until approved drawings, plans, calculations and other details are provided to Trimline, any Quotation or other assessment of Works shall be considered by Trimline as estimates only.

5. OBLIGATIONS

5.1 The Customer shall ensure that:
5.1.1 Trimline is provided with adequate secure, dry storage on board the Vessel or quayside, as determined by Trimline;
5.1.2 The Customer must ensure that the internal temperature of the Vessel remains above +10 degrees Celsius or such other temperature as specified by Trimline for the proper curing of materials and completion of Works.
5.1.3 Trimline and its staff and contractors are provided with accommodation on the Vessel or within a fifteen (15) minute commute by car to the Vessel and the Customer shall arrange and pay for such transportation as Trimline requires to and from the Vessel for its staff or contractors who are engaged in the Works. Trimline reserves the right to charge the Customer for any time in excess of fifteen (15) minutes spent waiting for transport arranged by the Customer and to arrange its own transport at the Customer's and expense;
5.1.4 That any staff or contractor of Trimline performing Works during the night (anytime between 19:00 and 07:00) is accommodated away from the day shift project areas on the Vessel or Works area to ensure adequate and unbroken sleep.
5.1.5 Trimline is given full details of any contractors (including their representative who has all necessary authority to direct and bind the contractor) that are undertaking works associated to areas of work which Trimline are responsible for, not less than six (6) weeks prior to commencement of the Works, together with dates and durations of any planned interactions by this date;
5.1.6 Trimline is provided with a point of contact for each third-party contractor carrying out works on the Vessel or Vessel site;
5.1.7 All items, products, materials and supplies specified by the Customer comply with International Maritime Organization requirements;
5.1.8 It is safe to carry out the Works on the Vessel or at the site where the Works are scheduled to be performed or delivered.

5.2 Notwithstanding any other term in this Agreement, Trimline shall not be liable to the Customer or any third party for (and the Customer shall indemnify Trimline in full against) any:
5.2.1 Delays due to adverse weather conditions or circumstances, outside the reasonable control of Trimline or which are due to an act or omission of the Customer or a third party acting for or on behalf of the Customer;
5.2.2 Delays or interferences due to Government or local authority bodies out of the control of Trimline or by any contractor or supplier appointed by or in accordance with the Customer's instruction;
5.2.3 Delay, cost, charge, fee or liability resulting from a failure to comply with applicable laws, regulations or safety requirements which is in any way attributable to the Customer's supply or insistence on using, any product, material, fit or finish;
5.2.4 Degradation of materials, products, materials or supplies where the expected commissioning of Works has been delayed or
5.2.5 Any issue or condition relating to the vessel, which was not foreseen, or which was not fully notified to Trimline of in writing prior to its discovery.

6. CO-OPERATION

6.1 Each party agrees to co-operate, at its own expense (but without being compelled to incur material expenditure), with the other party in the fulfilment of the purposes and intent of this Agreement. To avoid doubt, neither party shall be under any obligation to perform any of the other's obligations under this Agreement.

7. REQUEST FOR A CHANGE IN MATERIALS or WORKS

7.1 If either party wishes to introduce a variation in the Materials or Works, it shall serve a written notice ("Variation Order") on the other party's Representative setting out:
7.1.1 the proposed change in sufficient detail to enable the other party to evaluate it in full;
7.1.2 the reasons for proposing the change;
7.1.3 a request to consult with the other party with a view to deciding whether to agree to the change and, if so, what consequential changes are required as a result;
7.1.4 any implications of the change (including effects on the Charges and Works Schedule); and
7.1.5 if there are any dates by which a decision on the variation is critical.

7.2 The party in receipt of the Variation Order shall evaluate it in good faith, taking into account all relevant issues, including whether the variation:
7.2.1 affects the quality of the Works or the likelihood of successful delivery of the Works; and
7.2.2 materially or adversely affects the risk or costs to which the other party is exposed.

7.3 As soon as practicable after receiving the Variation Order, the parties shall meet and discuss the matters referred to in it. During their discussions either party may propose reasonable modifications or accept or reject the Variation Order.

7.4 If the parties agree to vary the Works or Materials, such variation shall be recorded in writing and signed by each party's Representative.

7.5 Notwithstanding the above, the Customer acknowledges and agrees that any change to the Works or Materials is likely to result in an increase in the Charges and Trimline shall be entitled to act on the instructions of the Customer in respect of any such change and the Customer shall remain liable for the cost of any such change, irrespective of whether the cost implication was detailed by Trimline at the time of the request or later.

7.6 Trimline, acting reasonably, shall not reject a change which is required in order to conform to a change in law or to address an Emergency or other Works urgently required or otherwise requested by the Customer, however in all instances the costs of any such change shall be borne by the Customer and the Customer acknowledges that Trimline may not be able to fully specify the Expenditure or other cost impact of such change within the period that such Works are required or requested.

8. ACCESS AND RIGHT OF ENTRY

8.1 On the Commencement Date, the Customer shall grant to Trimline all necessary permissions to board the Vessels and to remain on board solely for the purpose of carrying out the Works.

8.2 The Customer shall ensure that the area that Works are to be performed at will be clear from other trades, contractors and Vessel staff and passengers and should Works be interrupted or disrupted by the Vessel owner, operator, yard at which it is stowed, or by the Customer which delays the Works or requires Trimline to return to the Works site for completion, then all resulting travel time, transfers, travel costs and expenses suffered or incurred by Trimline shall be charged to and payable by the Customer

8.3 Trimline shall use its reasonable endeavours to ensure that the Works do not prevent the Customer from:

8.3.1 accessing the Vessel;

8.3.2 take schedules of repairs and inventories of fixtures and fittings, plant and machinery; or

8.3.3 inspecting and carrying out works of construction, replacement, addition, alteration, maintenance or repair to the Vessel.

8.4 Trimline shall carry out the Works in a manner which does not breach its permission, consent or licence to board and remain on the Vessel.

8.5 If this Agreement is terminated for any reason prior to the Expiry Date, any consent granted to board and remain on ship shall automatically cease to apply.

9. THE CUSTOMER'S USE OF THE VESSEL

9.1 The Customer shall ensure that Trimline is granted all necessary access to the Vessel as required by Trimline to carry out the Works, subject to:

9.1.1 Any Emergencies in accordance with Clause 10; or

9.1.2 Any Necessary Consents required to be obtained by Trimline for which the Customer does not control or is unable to assist with.

10. EMERGENCIES

Trimline acknowledges that in the event of an Emergency, all or part of the Vessel may be required by the Customer and that the Customer may also be required to suspend all or part of any of the Works. In such circumstances, both parties shall take such reasonable steps as are available to mitigate any interruption to the Works Schedule (as best they can in the circumstances) and Trimline shall be afforded such additional time or other change it requires to the Works Schedule, Charges or other terms of the Quotation in order to complete the Works around the Emergency.

11. REMOVAL FROM THE VESSEL

If the Customer, acting at all times reasonably, becomes concerned at the behaviour or performance of an individual employed in or about the execution of the Works, he will inform Trimline in writing of his concern in order that, where appropriate, action may be taken by Trimline. Should an improvement not be forthcoming, or should a single incident be considered by the Customer (acting reasonably) to be so serious as to necessitate immediate removal, the Customer shall request Trimline to remove the person from the Vessel or re-assign them from Works. Trimline shall take action in relation to the Customer's request in accordance with its employee policies.

12. RESOURCES AND TRAINING

12.1 Trimline shall use reasonable endeavours throughout the Term of the Works to:

12.1.1 have a sufficient number of staff engaged in the provision of the Works with the requisite level of skill and experience;

12.1.2 ensure all staff receive such training and supervision as is necessary to ensure that the proper performance of the Works under this Agreement; and

12.1.3 require its staff to be properly and presentably dressed in appropriate work wear with identification.

13. HEALTH AND SAFETY

13.1 Trimline shall ensure that it and its employees shall in the course of this Agreement comply with the Health and Safety at Work etc Act 1974.

13.2 Trimline shall adopt safe methods of work in order to protect the health and safety of its own employees, the employees of Trimline and of all other persons including members of the public.

13.3 Trimline shall properly maintain records of all accidents and incidents at the Vessel.

14. INSURANCES

14.1 Trimline shall with effect from the Commencement Date and throughout the Works Period take out such policy or policies of insurance as may be necessary to insure against all risks which a prudent Works provider engaged in providing the Works would insure against and any insurances as may be required by law for the Works Period.

14.1.1 public liability, such insurance cover being in an amount not less than £5,000,000 (five million pounds) in respect of each and every claim, the number of claims in any period of insurance to be unlimited or such higher figure as Trimline may from time to time specify; and

14.1.2 employer's liability including (without limitation) in respect of personal injury or death of any person arising under a contract of Works and/or arising out of an incident occurring during the course of such person's employment in compliance with the Employer's Liability (Compulsory Insurance) Act 1969; such insurance cover shall not be less than £5,000,000 (five million pounds) in respect of any one incident.

14.2 If Trimline appoints any Subcontractor in connection with the Works, Trimline shall ensure that such Subcontractor takes out such insurance policies as may be necessary for the purpose of delivering the subcontracted Services.

15. HAZARDOUS SUBSTANCES

Trimline shall ensure that any hazardous materials or equipment used or intended to be used in the provision of the Works are kept under control and in safe keeping in accordance with all relevant legislation and Good Industry Practice, and shall ensure that all such materials are properly and clearly labelled on their containers, and shall inform the Customer of all such materials being used or stored at the Vessel and shall comply with any other reasonable requirement of the Customer in respect of such materials and equipment.

16. COSHH REGISTER

Trimline shall maintain a COSHH register in relation to the Vessel and shall ensure that a copy of each register is held at the relevant Vessel and that a copy is given to the Customer. Trimline shall notify the Customer of any items which it is using or storing at any of the Vessel and which requires to be included in such register.

17. INVOICING AND PAYMENT

17.1 In consideration for agreeing to perform the Works, the Customer shall pay Trimline the Charges in accordance with the payment requirements or terms set out in the Quotation.

17.2 All amounts due under this Agreement are exclusive of VAT and VAT will be added to the invoiced amount at the appropriate rate and all payments required to be made under this Agreement shall be made in full and without set-off, deduction, delay or counterclaim.

17.3 If the Customer fails to pay any amount due in accordance with this Agreement, the Customer shall pay, in addition to the amount overdue, simple interest on that amount for the period of default calculated at eight per cent (8%) over the Base Rate of the Bank of England which is current at the date the payment became overdue and the parties agree that this is a substantial remedy for the purpose of the Late Payment of Commercial Debts (Interest) Act 1998.

17.4 Notwithstanding and without prejudice to any other rights which Trimline may have, upon termination of the Quotation or this Agreement for any reason, Trimline shall be entitled to invoice the Customer (and the Customer shall be required to pay within 28 days of receipt) for those Works performed, Materials purchased or ordered and other contractual commitments which Trimline is unable to terminate without liability.

18. FINAL SURVEY AND DEFECTS

18.1 At completion of the Works, the Customer shall be entitled to carry out or procure the carrying out of a final survey of the Vessel to assess whether the Works have been carried out in accordance with the requirements of this Agreement and the Quotation. Any survey shall be documented by the production by the Customer of a snagging list ("Snagging List") setting out any defects in the Works.

18.2 Subject to clause 18.4, if the final survey shows that Trimline has materially failed to comply or is not materially complying with its obligations under the Schedule of Works or this Agreement generally the Customer shall:

18.2.1 notify Trimline in writing giving full details of the defect and of the rectification and/or maintenance work set out in the snagging List ("Outstanding Works") which is required to bring the Works to the standard they would have been in if Trimline had complied or was complying with its obligations under the Schedule of Works or this Agreement generally; and

18.2.2 specify a reasonable period within which Trimline must carry out the Outstanding Works.

18.3 Trimline shall carry out the Outstanding Work in order to reach the required standard under this Agreement within the reasonable period specified and any costs it incurs in carrying out the Outstanding Work shall be at its own expense unless the Works are required to address any act or omission or failure of the Customer or any third party not related to or engaged by Trimline, in which case the Customer shall be liable for the cost of any such Outstanding Work.

18.4 On completion of the Outstanding Works, the Customer's authorised representative shall be required to sign off and the Snagging List as being completed, or specify any defect yet to have been rectified as agreed in which case Trimline shall perform such reasonable works as are required to complete the outstanding Works. Failure or delay by the Customer to inspect or sign off on any Outstanding Works or the Snagging List shall not prevent acceptance of them.

18.5 Performance of any Outstanding Works shall be the Customer's sole right and remedy in the event of any failure by Trimline to properly deliver or provide the Works.

19. FORCE MAJEURE

19.1 No party shall be entitled to bring a claim for a breach of obligations under this Agreement by the other party or incur any liability to the other party for any losses or damages incurred by that other party to the extent that it is attributable to a Force Majeure Event.

19.2 On the occurrence of a Force Majeure Event, the Affected Party shall notify the other party as soon as practicable giving details of the Force Majeure Event and its effect on the obligations of the Affected Party to the reasonable satisfaction of the other party and any action proposed to mitigate its effect.

19.3 As soon as practicable following such notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of this Agreement.

20. VACATION OF VESSEL

Upon termination of this Agreement howsoever caused or upon the Expiry Date, Trimline shall vacate all of the Vessel unless otherwise required to remain or re-board at the request or requirement of the Customer.

21. INTELLECTUAL PROPERTY

All Intellectual Property Rights relating to or arising from the provision of the Works shall remain with, or vest automatically in (as the case may be) Trimline, however Trimline hereby grants to the Customer, free of charge, an irrevocable, non-exclusive, non-transferrable licence to use the Intellectual Property Rights in relation to the Works to the extent required to take the benefit of them, or as may be required in order to comply with any of the Customer's obligations herein.

22. CONFIDENTIAL INFORMATION

22.1 Each Party shall keep in strict confidence all Confidential Information provided by or on behalf of the other in connection with the Contract. Neither party shall disclose any such Confidential Information save as required by law or to the extent that such disclosure is strictly required in order for the other to fulfil its obligations in relation to the Works. Where such disclosure is required, the party then disclosing shall ensure (as best as possible) that any party to whom Confidential Information is disclosed is subject to confidentiality obligations equivalent to those in this Clause. This Clause shall survive termination of the Contract.

22.2 The parties agree that this Agreement shall be treated as Confidential Information.

23. LIMITATION OF LIABILITY

23.1 Other than as expressly dealt with elsewhere in this Agreement, in no event shall either Party be liable in negligence, breach of contract, breach of statutory duty or otherwise due to, under and/or arising out of or in connection with this Agreement or any Quotation to the extent that such loss or damage is:

23.1.1 special, incidental, indirect or consequential damages; and

23.1.2 loss of any of the following: anticipated savings, loss of profit, pure economic loss, loss of contract, loss of business opportunity, lost or damaged data, losses suffered by third parties and all regardless of whether such loss is direct, indirect, special or consequential opportunity.

23.2 Subject to clause 23.1, Trimline's entire liability to the Customer arising out of or in connection with this Agreement, whether in contract, tort (including negligence) or breach of statutory duty shall not exceed the Charges payable to Trimline, however for direct damages to the Vessel which is caused by the wilful negligence of Trimline, the entire liability of Trimline to the Customer shall not exceed one hundred per cent (100%) of the Charges payable by the Customer for the Works.

23.3 To the extent that Trimline is liable to the Customer for any matter under or in connection with this Agreement, Trimline's entire liability, whether in contract, tort (including negligence) or breach of statutory duty, to the Customer and for all matters relating to a Quotation, shall not exceed the Charges payable by the Customer under that Quotation.

23.4 Notwithstanding any other clause in this Agreement, nothing in this Agreement shall operate or be interpreted to limit or exclude the liability or remedy of either Party or any other person:

23.4.1 for death or personal injury caused by its negligence;

23.4.2 for fraud or fraudulent misrepresentation; or

23.4.3 for any act, omission or matter where liability may not be excluded or limited under English law.

23.5 All conditions, warranties, representations, statements, liabilities and other terms implied by common law, statute or otherwise are excluded to the fullest extent permitted by law.

23.6 None of the provisions of this clause 0 shall apply to any loss suffered by Trimline arising from a failure by the Customer to pay for any of the Works or for any other amount due in accordance with the Agreement.

23.7 Nothing in this Agreement shall limit or remove each party's obligation to mitigate any loss, cost, damage or expense suffered or incurred by it under this Agreement.

24. REPRESENTATIVES

24.1 Upon the Commencement Date, each party shall appoint and confirm to the other, a representative ("Representative") who shall be authorised to exercise the functions and powers of that party for all purposes in relation to this Agreement.

24.2 Each party may by notice to the other change their Representative.

25. ASSIGNMENT

25.1 Trimline shall be entitled to assign or subcontract all or part of this Agreement to those of its approved sub-contractors as Trimline requires, without the Customer's prior written consent provided that Trimline shall be fully liable for the acts and omissions of its Subcontractor in relation to the performance of the Works.

25.2 If Trimline enters into any Subcontract in connection with this Agreement, it shall impose obligations on its Subcontractors in the same terms as those imposed on it and shall procure that the Subcontractor complies with such terms.

26. CHANGES TO THE AGREEMENT

26.1 No amendments to this Agreement shall be binding unless agreed to by the parties and evidenced in writing and signed by both parties.

26.2 The parties acknowledge that matters will arise during the Works Period which will require consequential amendments to this Agreement. The parties shall act in good faith towards one another in discussing and agreeing any amendments required to this Agreement following the Commencement Date.

27. DISPUTE RESOLUTION

27.1 Any dispute arising in relation to any aspect of this Agreement shall be resolved in accordance with this clause.

27.2 Trimline and the Customer shall use their best endeavours and act in good faith to resolve by agreement any disputes arising between them.

27.3 Without prejudice to clause 27.1, any dispute shall first be referred to each parties authorised or appointed representative for the management of this Agreement. Any unresolved matters which cannot be resolved by the representatives acting reasonably shall be referred to the senior management of each party.

27.4 Without prejudice to clauses 27.2 and 27.3, any disputes which cannot be resolved by the Senior Management acting reasonably within 20 Business Days may be referred by either party to mediation in accordance with the Centre for Dispute Resolution (CEDR) (or its successor body) Model Mediation Procedure ("the Model Procedure").

27.5 The mediation may be initiated by either party giving notice in writing ("Mediation Notice") to the other party to the dispute, requesting mediation.

27.6 If the matter has not been resolved by the mediation within ten (10) Business Days of initiation of the procedure or if either party will not participate in the mediation, then either party may refer the matter to the courts.

28. TERMINATION

28.1 Without affecting any other right or remedy available to them, both Trimline and the Customer may terminate this Agreement with immediate effect by giving written notice to each other if:

- 28.1.1 either Party commits a material breach of any term of this Agreement which breach is irremediable or if such breach is remediable the Party in question fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- 28.1.2 either Party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the reasonable opinion that the Party's conduct demonstrates it does not have the intention or ability to give effect to the terms of this Agreement; or
- 28.1.3 either Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of their business.

28.2 Notwithstanding the above and without prejudice to any additional right or remedy available to Trimline (including without limitation the right to suspend any of the Works if a right for Trimline to terminate arises), Trimline may by notice to the Customer terminate the Agreement if:

- 28.2.1 the Customer fails to make any payment due under this Agreement by the relevant payment date; or
- 28.2.2 the Customer or any person for whom it is responsible interferes with or obstructs the Works.

28.3 Termination of this Agreement for any reason shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

29. WAIVER and SEVERABILITY

29.1 No delay or omission by either party hereunder to exercise or enforce any right, power or remedy arising under or in connection with this Agreement shall operate as a waiver of that or any other right, power or remedy, and any single or partial exercise or enforcement thereof shall not preclude any other or further exercise or enforcement thereof or the exercise or enforcement of any right, power or other remedy.

29.2 Waiver of a breach of or default under any of the terms of this Agreement does not constitute a waiver of any other breach or default and shall not affect any other terms of this Agreement.

29.3 If any of the provisions of this Agreement is found by a competent authority to be void or unenforceable it shall be deemed to be deleted from this Agreement and the remaining provisions shall continue to apply. Trimline and the Customer shall negotiate in good faith in order to agree the terms of a mutually satisfactory provision which most nearly achieves the object of the objectionable, allegedly void or unenforceable provision to be substituted for the provision found to be void or unenforceable.

30. ENTIRE AGREEMENT

30.1 This Agreement and all agreements entered into or to be entered into pursuant to the terms of this Agreement including for the avoidance of doubt the Schedule of Works, together constitute the entire agreement between the parties with respect to its subject matter and supersede all previous agreements and understandings between the parties.

30.2 Each party acknowledges that, in entering into this Agreement and other documents forming the entire agreement as to the subject of this Agreement, it does not do so on the basis of or in reliance upon any representations, promises, undertakings, warranties or other statements (whether written or oral) or any nature whatsoever except as expressly provided in this Agreement and save to the extent that they arise out of the fraud or fraudulent misrepresentation of any party and accordingly all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.

31. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

31.1 No person who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

31.2 Nothing contained in Clause 31.1 shall affect any right or remedy of any third party which exists or is available other than under the Contracts (Rights of Third Parties) Act 1999.

32. ACCRUED LIABILITIES

Termination of this Agreement for any reason shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

33. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the law of England and Wales and subject to Clause 27 (Dispute Resolution), the courts of England and Wales shall have exclusive jurisdiction in respect of any dispute arising from this Agreement or its subject matter.