

Life Racing Standard Conditions of Sale

This documents sets out Life Racing's standard conditions of sale relating to goods and services and shall form part of any contract

between

Life Racing Limited, a company incorporated in England having its registered office at Unit 6, Repton Close, Basildon, Essex SS13 1LE, United Kingdom (in these Conditions, referred to as "**Life Racing**");

and

the person purchasing the Goods and/or Services from Life Racing and identified as the Purchaser on the Order Confirmation (the "**Purchaser**").

1. Definitions and Interpretation

- 1.1. In this document, the following defined terms have the following meanings:-
- 1.1.1 "**Conditions**" means these terms and conditions and, where the context so permits, any Special Conditions;
 - 1.1.2 "**Confidential Information**" means any information that is disclosed by one party to the other in connection with this Contract in whatever form (whether orally, electronically or in Writing, and whether or not such information is expressly stated to be confidential or marked as such). Confidential Information includes know-how, trade secrets, product and formulation specifications, business plans, technical specifications, unpublished patent specifications, formulae, manufacturing processes, data, drawings, plans, photographs, databases and computer software in disk, cassette, tape or electronic form;
 - 1.1.3 "**Contract**" means the contract for the sale of the Goods and/or the supply of the Services, which will exist once Purchaser has accepted the Conditions in the manner laid down in Clause 2.2;
 - 1.1.4 "**Contract Representative**" means those persons designated as such by Life Racing and Purchaser and designated as such on the Order Confirmation or as subsequently notified to the other party in Writing from time to time in accordance with these Conditions;
 - 1.1.5 "**Delivery Address**" means Life Racing's premises or such other place detailed in the Order Confirmation;
 - 1.1.6 "**Delivery Date**" means the date(s) when the Goods will be delivered to, or available for collection from (as the case may be), the Delivery Address;
 - 1.1.7 "**Goods**" means the goods (including any part of them and any part delivered in stages) described in the Order Confirmation. For the avoidance of doubt, "Goods" includes materials, spares, equipment, raw materials, finished or semi-finished materials or articles, machinery or commodities. A reference to Goods includes
 - 1.1.7.1. individual items, or a number of items, whether or not identical or similar; and
 - 1.1.7.2. any materials, spares, equipment, articles, machinery or commodities supplied in connection with the Services;
 - 1.1.8 "**IPR**" means, without limitation, any patent, copyright (including rights in computer software and database rights), registered design, design right, registered and unregistered trade marks, topography rights, specifications or other intellectual property rights (whether or not registered) and applications for any of the foregoing rights in any part of the World;
 - 1.1.9 "**Life Racing IPR**" means IPR created, owned, or used by or on behalf of Life Racing in the course of the design, manufacture and supply of the Goods and/or Services and includes rights in Confidential Information;
 - 1.1.10 "**Order Confirmation**" means Life Racing's acknowledgement of order

provided to Purchaser in respect of the provision of the Goods and/or Services;

- 1.1.11. **“Price”** means the aggregate price of the Goods and/or the charge for the Services as stated in the Order Confirmation and, where the context permits, the price for any part delivery or performance of the Goods or the Services, where the Goods are to be delivered, or the Services are to be performed, in stages;
- 1.1.12. **“Services”** means the services (if any) described in the Order Confirmation being performed by or on behalf of Life Racing under the Contract;
- 1.1.13. **“Special Conditions”** means the special conditions (if any) described or included in the Order Confirmation;
- 1.1.14. **“Warranties”** means the representations and warranties contained in Clauses 9.1 and 9.2;
- 1.1.15. **“Warranty Period”** means
- 1.1.15.1. in the case of Goods, the period of 12 (twelve) months from the relevant Delivery Date. In the case of any Goods being repaired or replaced by Life Racing during the Warranty Period, the unexpired Warranty Period will recommence from the date upon which Purchaser is notified by Life Racing that the repairs have been finalised or the replacement Goods are ready and (in either case) available for collection by Purchaser; and
- 1.1.15.2. in the case of Services, the period of 2 (two) months after the date that such part of the Services has been performed; and
- 1.1.16. **“Writing”** and any similar expression includes fax transmission and comparable means of communication, but, unless otherwise agreed by Life Racing, does not include electronic mail. In the case of Life Racing, **“Writing”** means that Life Racing’s designated Contract Representative or another authorised person of Life Racing must sign the document concerned.

1.2. In interpreting these Conditions

- 1.2.1. Any reference to a statute or a provision of a statute will be interpreted as a reference to that statute or provision as amended, re-enacted or extended at the relevant time;
- 1.2.2. The headings in these Conditions are for convenience only and will not affect their interpretation;
- 1.2.3. References to one gender will include other genders and reference to the singular will include the plural and vice versa;
- 1.2.4. A reference to a person such as a company, a firm or an individual will include other corporate bodies and unincorporated associations and vice versa;
- 1.2.5. Any use of the words **“include”** and **“including”** will not be limited by the words that follow;
- 1.2.6. In the event of any conflict or inconsistency between them, the Special Conditions shall prevail over the terms of these Conditions.

2. Formation of the Contract

- 2.1 The Order Confirmation constitutes an offer by Life Racing to sell the Goods and/or provide the Services subject always to these Conditions and to the continued availability of the Goods and/or the Services.
- 2.2 The Order Confirmation will lapse unless unconditionally accepted by Purchaser in Writing within 30 (thirty) days of its date. Once Purchaser has accepted the Order Confirmation, a binding contract is formed. Within that 30 day period, Life Racing may withdraw the offer contained in the Order Confirmation at any time before it has been accepted by Purchaser. The Order Confirmation and these Conditions will apply to the Contract to the exclusion of any other terms put forward by Purchaser as being the terms upon which Purchaser contracts with Life Racing for the provision of the Goods and/or Services. This provision, therefore, applies to the terms of any purchase order that Purchaser has given to Life Racing or subject to which the Order Confirmation is accepted or purported to be accepted by Purchaser.
- 2.3 No variation to the Contract will be binding unless agreed in Writing between Purchaser and Life Racing. Life Racing’s employees or agents are not authorised to vary the Contract nor make any representations concerning the Goods and/or Services unless confirmed by Life

Racing in Writing. In entering into the Contract, Purchaser acknowledges that Purchaser is not relying on any variations or representations that are not confirmed in Writing.

- 2.4 Nothing in these Conditions affects the liability that either party may have to the other for fraudulent misrepresentation.

3. Description of the Goods and/or Services

- 3.1 The quantity, quality and description of the Goods and/or the Services will be as specified or referred to in the Order Confirmation or as otherwise agreed in Writing by Life Racing.

- 3.2 Life Racing reserves the right to make any changes in the specification of the Goods and/or the Services that are required to conform with any applicable statutory or regulatory requirements in force from time to time and to alter or substitute the Goods or the method of supply of the Services provided that

3.2.1 the changes do not materially affect the quality or performance of the Goods and/or the Services (as the case may be); and

3.2.2 such alteration or substitution is approved by any Appropriate Authority where such approval is required.

- 3.3 Purchaser is responsible for

3.3.1 giving Life Racing any information, documentation and materials relating to the Goods and/or the Services that Life Racing reasonably requires within a sufficient time to enable Life Racing to perform the Contract in accordance with these Conditions;

3.3.2 ensuring the accuracy of the terms of all orders (including the terms of any applicable specifications) and other information submitted by Purchaser in accordance with Clause 3.3.1; and

3.3.3 (without affecting the generality of Clause 3.3.1) giving Life Racing upon request by it any information, documentation and materials which Life Racing reasonably requires in order to comply with its quality control procedures in force from time to time.

4. Price of the Goods and Services

- 4.1 The Price will be as stated in the Order Confirmation and, unless otherwise so stated, will be:-

4.1.1 exclusive of any applicable taxes and duties. If Life Racing is required to pay

any taxes or duties on Purchaser's behalf, Purchaser will reimburse Life Racing immediately on demand;

4.1.2 exclusive of all reasonable travel (including air travel), accommodation, subsistence and other expenses incurred by or on behalf of Life Racing where the Services are to be supplied at a location other than at Life Racing's premises; and

4.1.3 exclusive of all charges for packaging the Goods for air freight.

- 4.2 Life Racing reserves the right, by giving Purchaser notice in Writing at any time prior to the Delivery Date, in the event that there is any increase in the cost to Life Racing

4.2.1 of providing the Goods and/or the Services, including any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials, fuel, power, transport or other costs of manufacture;

4.2.2 resulting from any change in the Delivery Date, quantities or specifications of the Goods or specification of the Services requested by Purchaser or by an Appropriate Authority; or

4.2.3 resulting from any delay caused by any of Purchaser's instructions or failure by Purchaser to give Life Racing adequate information, material or instructions

to increase the Price by a reasonable sum that puts Life Racing in the same position in terms of profitability as it would have been in, had the event not occurred.

- 4.3 Where the Price is varied in accordance with Clause 4.2, such variation will be binding on Purchaser and will not give Purchaser the right to cancel the Contract.

5. Terms of payment

- 5.1 Life Racing will invoice Purchaser for the Price (or instalments of the Price) on the invoice dates set out in the Order Confirmation. If no invoice dates are set out in the Order Confirmation, Life Racing may invoice Purchaser at the time of delivery of the Goods, or at any time thereafter, and/or on or after completion of the Service.

- 5.2 Purchaser will pay the Price in the currency specified in the Order Confirmation in cleared funds to Life Racing's nominated bank account specified in the Order Confirmation or such other bank account of which Life Racing gives

Purchaser notice from time to time, within 30 (thirty) days of the date of Life Racing's invoice. Time of payment of the Price will be of the essence of the Contract.

- 5.3 If Purchaser does not make payment within 30 days of the date of the invoice, then without limiting any other remedy available to Life Racing, Life Racing may
- 5.3.1 immediately terminate the Contract (in whole or in part) or suspend all further work or deliveries until payment has been made in full. Any additional costs and expenses of whatever nature incurred by Life Racing as a result of any termination or suspension will be paid by Purchaser; and/or
- 5.3.2 charge interest on such outstanding sums from time to time at the rate of 4% per annum above the base lending rate of Barclays Bank plc from the date that payment should have been made until the date that payment in full has been received by Life Racing, such interest being calculated on a daily basis. In addition Purchaser will reimburse all costs and expenses (including legal costs) incurred by Life Racing in the collection of any overdue amount.
- 5.4 Whenever under the Contract any sum of money shall be recoverable from, or payable by, Purchaser, it may be deducted from any sum then due or which may at any time afterwards become due to Purchaser under this or any other contract with Life Racing. The exercise by Life Racing of its rights under this Clause will not affect any other rights or remedies available to Life Racing under the Contract, or otherwise howsoever, at law or in equity. Purchaser will pay all amounts due under the Contract in full without deduction or withholding other than as required by law and Purchaser will not assert any right of set-off or credit in order to justify the withholding of payment of such amounts in whole or in part.
- 5.5 If Purchaser fails to take Delivery of the Goods on the Delivery Date or if Life Racing is prevented from performing any of its obligations under the Contract as a result of any act or omission on Purchaser's part, Life Racing will be entitled (without affecting any other rights or remedies which Life Racing may have) to invoice Purchaser for the Price and payment will be due as if Delivery of the Goods had been effected or as if the Services had been completed. In such event Purchaser will be liable for and will promptly reimburse Life

Racing (if Life Racing asks Purchaser to do so) for all costs and expenses incurred by Life Racing up to the time of actual collection of the Goods in accordance with Clause 6.3.

6. Delivery

- 6.1 Unless the Contract expressly provides otherwise, delivery of the Goods will be effected by Life Racing making the Goods available for collection by Purchaser at the Delivery Address on the Delivery Date ("Delivery").
- 6.2 Where the Contract provides for Delivery of the Goods in stages, each Delivery will be treated as taking place under a separate contract and default or delay by Life Racing in making any single Delivery will not entitle Purchaser to terminate the Contract as a whole.
- 6.3 If Purchaser fails to take delivery of the Goods on the Delivery Date then, without limiting any other right available to Life Racing, Life Racing may at its sole option
- 6.3.1 store the Goods until actual delivery and charge Purchaser for the reasonable costs of storage (including insurance, preservation and demurrage charges) and any other charges reasonably incurred by Life Racing and Life Racing will be entitled to exercise a right of lien over the Goods in respect of payment of such costs and charges; or
- 6.3.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to Purchaser for the excess over the Price or charge Purchaser for any shortfall below the Price.
- 6.4 Purchaser will procure that any of Purchaser's representatives attending any of Life Racing's premises will comply with all regulations that apply to such premises, including all applicable security and health and safety regulations.
- 6.5 The Price does not include any carriage, freight, insurance or any other transport costs. If Life Racing and Purchaser agree that Life Racing will arrange or undertake the carriage, freight, insurance or transport of the Goods for Delivery then such costs will be for Purchaser's account. If Life Racing incurs such costs Purchaser will reimburse them to Life Racing and the provisions of Clause 5 will apply subject to such modifications as the context may require.
- 6.6 Where the place of supply of the Services is not at Life Racing's premises, Purchaser will notify Life Racing in Writing in good time beforehand of all regulations that apply to any

representatives of Life Racing because they will be attending at any premises where the Services are to be performed. Purchaser will also provide to Life Racing all accommodation, services, amenities, facilities, utilities and equipment reasonably requested by Life Racing for the purposes of supplying the Services.

- 6.7 Unless Life Racing has agreed otherwise in Writing, the Delivery Date and any time or period agreed for performance of the Services are estimates only made in good faith and Life Racing will not be liable for the consequences of any delay and time of delivery or performance by Life Racing will not be of the essence of the Contract. Life Racing will use its reasonable endeavours to meet any estimated date or agreed period for completion of the Services.

7. Risk and Property

- 7.1 Risk of damage to, or loss of, the Goods will pass to Purchaser on Delivery of the Goods to Purchaser or Purchaser's representatives or, if Purchaser wrongfully fails to take delivery of the Goods, the time when Life Racing has tendered delivery of the Goods.
- 7.2 Any Goods returned by Purchaser to Life Racing will remain at Purchaser's risk except where the Goods have been returned by prior arrangement in Writing with Life Racing, in which case the Goods will be at the risk of Life Racing from the time of receipt by Life Racing.
- 7.3 Even although risk in the Goods will pass to Purchaser in accordance with Clause 7.1, the property in the Goods will remain with Life Racing until Life Racing has received in cash or cleared funds, payment in full of the Price and all other debts then due by Purchaser to Life Racing.
- 7.4 Until such time as the property in the Goods has passed to Purchaser, Purchaser agree that, unless Life Racing agrees in Writing that these requirements will not apply:
- 7.4.1 Purchaser will store the Goods in a warehouse or other suitable premises, keep the Goods entirely separate from Purchaser's goods and those of third parties and keep the Goods properly protected, insured and identified as Life Racing's property;
- 7.4.2 Purchaser will not attach the Goods to real, or in Scotland heritable, property;
- 7.4.3 Life Racing or its agent may (without limiting any other rights it may have) recover the Goods. Purchaser will allow Life Racing or its agents all necessary

access to enable Life Racing to exercise its rights in accordance with these Conditions and to monitor Purchaser's compliance with Purchaser's obligations under them;

- 7.4.4 Life Racing may require delivery up to it of all or any part of the Goods at Purchaser's expense; and/or
- 7.4.5 Purchaser may sell the Goods on a bona fide arm's length basis to Purchaser's Customers on normal commercial terms but Purchaser will not otherwise dispose of the Goods.

- 7.5 Any resale by Purchaser of Goods in accordance with Clause 7.4.5. will (as between Life Racing and Purchaser only) be made by Purchaser as agent for Life Racing and the proceeds of sale of any resale by Purchaser will be held in trust for the benefit of Life Racing and placed in a separate account until accounted for by Purchaser to Life Racing.
- 7.6 Purchaser will not be entitled to pledge any of the Goods which remain Life Racing's property or in any way charge them by way of security, but if Purchaser does so, all moneys owing by Purchaser to Life Racing will (without limiting any other rights that Life Racing may have) immediately become due and payable.

8. Contract Representatives

- 8.1 Both Life Racing and Purchaser will appoint Contract Representatives who will be responsible for the smooth running of the Contract and for other matters remitted to them under the Contract. The Contract Representatives will liaise with each other on all aspects of the Contract. The Contract Representatives at the date the Contract is concluded are those named in the Order Confirmation.
- 8.2 Without limiting Clause 8.1, Purchaser will at Purchaser's own cost make available sufficient appropriately trained and experienced personnel to liaise with Life Racing as necessary in connection with the supply of the Goods and any Services.

9. Warranties and liability

- 9.1 Life Racing warrants to Purchaser that the Goods will:-
- 9.1.1 be free from material defects in design, materials and workmanship;
- 9.1.2 comply with all statutory requirements and regulations relating to the sale of the Goods.

- 9.2 Life Racing warrants to Purchaser that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such quality standards as it is reasonable for Purchaser to expect in the circumstances.
- 9.3 Subject to Clause 9.3, if it is demonstrated to Life Racing's reasonable satisfaction that any of the Goods have not been supplied, or the Services have not been performed, in accordance with the Warranties, then Life Racing's sole liability to Purchaser will be limited to doing either of the following (as Life Racing in its sole discretion may determine)
- 9.3.1 repairing or replacing the Goods or re-performing the Services in accordance with the Contract as soon as reasonably practicable thereafter in the circumstances; or
- 9.3.2 refunding the part of the Price that relates to the affected Goods or Services. For the avoidance of doubt, Purchaser will not have the right to require third parties to repair the Goods or re-perform the Services and, if Purchaser does so, Purchaser will have no right to require Life Racing to meet such third parties' expenses and the Warranty Period will automatically come to an end.
- 9.4 Save as provided above, and to the fullest extent permitted by law, all representations, warranties, conditions or terms (whether express or implied, statutory or otherwise) as to the quality of the Goods, their fitness for any purpose, their conformity with any sample or description or in any other respect, are excluded.
- 9.5 So far as permitted by law, Life Racing's liability under the provisions of this Clause 9 is limited as follows:
- 9.5.1 Life Racing will not be liable for breach of the Warranties unless Purchaser has notified Life Racing promptly in Writing within the relevant Warranty Period that a breach has occurred;
- 9.5.2 Life Racing will not be liable for any defects in the Goods, unless the Goods to which the claim relates are promptly returned to the Life Racing, by prior arrangement with Life Racing;
- 9.5.3 Life Racing will not be liable if the Goods are resold in anything other than their original packaging;
- 9.5.4 Life Racing will not be liable in respect of any defect in the Goods arising from fair wear and tear; abnormal working conditions; wilful damage or misuse; negligence on Purchaser's part; or alteration or repair of the Goods without Life Racing's prior approval in Writing;
- 9.5.5 Life Racing will not be liable to Purchaser if any defect in the Goods or Services arises from any drawing, design or specification supplied by Purchaser,
- Provided that, nothing in this Clause 9 shall exclude or limit any liability of Life Racing arising from death or personal injury caused by Life Racing's negligence.
- 9.6 Life Racing will not be responsible for removal or reinstallation costs or any charges relating to dismantling or reassembling any of the Goods and any charges in this connection will be paid by Purchaser.
- 9.7 If any of the Goods are proved to the satisfaction of Life Racing to be the subject of a valid claim under the Warranties, Life Racing will bear all reasonable costs of packing, insurance and transport which may be incurred by Purchaser in returning them to Life Racing and, where applicable, in returning the repaired or replaced items to Purchaser provided that Purchaser will make no charge for use of Purchaser's own transport for these purposes.
- 9.8 Notwithstanding Clause 7, the property in any Goods or any part of them that are returned to Life Racing by Purchaser and for which a refund or replacement is given in accordance with Clause 9.3, will belong to Life Racing.
- 9.9 A claim by Purchaser in respect of any defect in the Goods or in respect of any delay in Delivery of Goods (or any instalment of them) will not entitle Purchaser to cancel or refuse such Delivery or payment for such Goods.
- 9.10 The provisions of this Clause 9 represent the entire liability of Life Racing, its principal, officers, employees and agents with respect to any matter arising out of or in connection with the quality or condition of the Goods or Services or any part thereof, and all other warranties, guarantees, terms, conditions or representations as to quality, description, standard of workmanship, condition, fitness for purpose or otherwise (whether express or implied by statute or common law) are hereby excluded to the fullest extent permissible by law.
- 9.11 In no circumstance will Life Racing be liable for indirect or consequential loss or damages whether caused by breach of contract (including the Contract), negligence, breach of any

statutory duty or arising in any other way. For the purpose of this Clause indirect or consequential loss or damage means any loss not directly arising from the breach, negligence or other event concerned.

9.12 Purchaser will keep Life Racing indemnified against all costs, claims, demands, expenses and liabilities of whatever nature (including legal costs and expenses) made by third parties and caused in whole or in part by, or arising out of, any act or omission of Purchaser, Purchaser's employees or agents in connection with the Goods and/or Services, to the extent that the same are caused by or related to:-

9.12.1 any claim for personal injury or death or loss or damage directly or indirectly occasioned by default (including non-compliance with any statutory or other obligation in relation to the Goods or Services), failure to follow Life Racing's instructions (whether oral or written), or misuse or mal-operation of the Goods by or on Purchaser's part or on the part of any person or persons other than on behalf of Life Racing;

9.12.2 any designs, drawings or specifications given to Life Racing by Purchaser in respect of the Goods or the Services;

9.12.3 any materials or products supplied by Purchaser to Life Racing and incorporated or used by Life Racing in the supply of the Goods or the performance of the Services;

9.12.4 the improper incorporation, assembly, use, processing, storage or handling of the Goods by Purchaser.

This indemnity shall survive termination of the Contract.

9.13 Notwithstanding any other provision of this Contract, Life Racing will not be liable to Purchaser or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure is beyond Life Racing's reasonable control and Life Racing has given notice to Purchaser accordingly. Without limiting these general words, the following events will be regarded as being beyond Life Racing's reasonable control:

9.13.1 acts of God, explosion, flood, tempest, epidemic or pandemic, fire or accident;

9.13.2 unavailability of power at the manufacturing plant, breakdown of plant

or machinery, or shortage or unavailability of raw materials from normal sources of supply;

9.13.3 strikes, lock-outs or other industrial actions or trade disputes (whether involving Life Racing's employees of those of a third party);

9.13.4 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

9.13.5 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any applicable governmental, parliamentary or local authority; and

9.13.6 import or export regulations or embargoes.

9.14 If an event should arise which is of a type to which Clause 9.13 applies, and it affects Life Racing's performance of the Contract, the time for performance will be extended accordingly and Life Racing will take reasonable steps to minimise the effect of any such delay. In the event that any failure to deliver or perform by Life Racing pursuant to Clause 9.13 results in a delay of more than 30 (thirty) days, then Life Racing will be entitled to cancel all or part of the Contract by written notice to Purchaser without any liability for loss or damage caused by Life Racing's failure to perform.

10. Intellectual property

10.1 Except as expressly provided in this Contract, Purchaser will not have any rights in respect of any of Life Racing's IPR or in any associated goodwill and Purchaser acknowledge that, except as expressly provided in this Contract, Purchaser will not acquire any rights in respect of any of Life Racing's IPR or any of its licensors' IPR or any associated goodwill and that all such rights and goodwill are, and will remain, vested in Life Racing or its licensors.

10.2 Any liability of Life Racing in respect of infringement of any third party IPR by the Goods or any part of them will be limited to Goods of Life Racing's designed (unless otherwise stated by Life Racing) and such liability will only be in respect of infringement arising in the United Kingdom. In the event of such infringement, Life Racing's obligations will be limited to (at Life Racing's option) replacing the infringing Goods by non-infringing Goods, or securing at its own cost, a licence permitting use of the said Goods by Purchaser or paying a sum to Purchaser in compensation not exceeding the Price of the

said infringing Goods. Life Racing will not have any liability under this Clause to the extent that the indemnity contained in Clause 10.6 applies.

- 10.3 Life Racing will, as far as it is reasonably able to do so, allow Purchaser the benefit of any reliefs or indemnities received from the supplier of any infringing Goods not of Life Racing's design and manufacture.
- 10.4 No liability will be incurred by Life Racing in respect of infringements or alleged infringements arising out of a combination of the Goods with any other item or from their use for a purpose not agreed or accepted in Writing by Life Racing prior to such use.
- 10.5 Life Racing's obligations under Clause 10.2 are conditional upon Purchaser promptly and fully notifying Life Racing of any actual, threatened or suspected infringement of any of Life Racing's IPR which comes to Purchaser's notice, and of any claim by any third party so coming to Purchaser's notice that the sale of the Goods infringes any rights of any other person. Purchaser will, at the request and expense of Life Racing, do all such things as may be reasonably required to assist Life Racing in taking or resisting any proceedings in relation to any such infringement or claim.
- 10.6 Purchaser warrant that any design or item furnished by Purchaser, or compliance by Life Racing with Purchaser's instructions, whether expressed or implied, will not cause Life Racing to infringe any third party's IPR and Life Racing's liability (whether under this Clause 10 or otherwise) will not extend to any such infringement. Purchaser hereby undertake that Purchaser will indemnify Life Racing upon demand against all losses, actions, claims, proceedings, judgements, damages, compensation, obligations, injuries, expenses and costs (including the cost of defending any legal proceedings), incurred by Life Racing as a result of any such infringement or alleged infringement.

11. Export Licences

- 11.1 If Delivery is to take place in the United Kingdom, Purchaser will be responsible for obtaining any licence or consent for the export of the Goods from the United Kingdom. Life Racing will, upon request and at Purchaser's expense, endeavour to assist Purchaser to obtain such licences or consents but Life Racing will not be liable in the event of the non-issuance or renewal of any licences or consents.
- 11.2 If Delivery is to take place outside the United Kingdom:-

- 11.2.1 the supply of any Goods for which a United Kingdom Export licence or other consent is necessary will be conditional upon the granting of such licence or consent by the United Kingdom Government or other competent authority. Life Racing will be responsible for obtaining such licence and/or consent but at the cost of and with the assistance of Purchaser, and Life Racing will not be liable in the event of the non-issuance or renewal of any licences or consents; and
- 11.2.2 Purchaser will be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any relevant duties.

12. Confidentiality

- 12.1 Except as provided by Clauses 12.2, 12.3 and 12.4, each party will at all times during the continuance of this Contract and after its termination
- 12.1.1 use all reasonable endeavours to keep all Confidential Information that they receive from the other party confidential and accordingly not disclose any of that Confidential Information to any other person; and
- 12.1.2 not use any Confidential Information that they receive from the other party for any purpose other than in accordance with this Contract.
- 12.2 Any Confidential Information may be disclosed by the party who receives it (the "**Recipient**") to any of the Recipient's employees and contractors to such extent only as is necessary for the purposes contemplated by this Contract and subject in each case to the Recipient using its best endeavours to ensure that the person in question keeps the same confidential and does not use the same except for the purposes for which the disclosure is made.
- 12.3 Any Confidential Information may be used by the Recipient for any purpose, or disclosed by the Recipient to any other person, to the extent only that
- 12.3.1 it is on the date of this Contract, or becomes, public knowledge through no fault of the Recipient (provided that in doing so the Recipient will not disclose any Confidential Information which is not public knowledge); or

12.3.2 it can be shown by the Recipient, to the reasonable satisfaction of the other party, to have been known to the Recipient prior to its being disclosed by it by the other party.

12.4 The Recipient may disclose the Confidential Information if and to the extent that it is required to do so by law or to the extent that it is ordered to do so by a court having valid jurisdiction to make such an order.

12.5 The party disclosing the Confidential Information may by notice demand its return and any copies made of it, or any part of it, by the Recipient or, at its option, demand the destruction and verification upon oath of the same following

12.5.1 fulfilment or accomplishment of the purposes contemplated by the Contract;
or

12.5.2 breach of any term of the Contract;

whichever shall be the sooner. The Recipient's obligations of confidentiality shall survive termination of the Contract and/or return of the Confidential Information subject only to the provisions of Clause 12.3 above.

12.6 Purchaser agree that Life Racing's Confidential Information is, by its nature, valuable proprietary commercial information, the misuse or unauthorised disclosure of which would be likely to cause Life Racing considerable damage for which monetary damages would not provide adequate compensation. Purchaser agree that, in addition to other rights and remedies that may be available to Life Racing, Life Racing is entitled to relief by way of injunction (including interim injunctive relief) available from any court having valid jurisdiction over its terms.

13. Termination

13.1 If Purchaser cancels the Contract otherwise than in accordance with Clause 13.3, Life Racing reserves the right to charge the full Price as liquidated damages without having to prove its actions.

13.2 Life Racing may cancel the Contract in respect of all or part only of the Goods and/or the Services by giving Purchaser at least 30 (thirty) days' notice at any time prior to the Delivery Date, in which event Life Racing's sole liability will be to repay to Purchaser any part of the Price which Purchaser has paid to Life Racing for the Goods or Services in respect of which Life Racing has exercised its right of cancellation.

13.3 Without limiting any other remedy, either party may terminate the Contract without liability by giving the other party notice at any time if:-

13.3.1 the other party makes a voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) if the other party becomes bankrupt or (being a company) the other party becomes insolvent or is subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction);

13.3.2 a creditor takes possession of, or a receiver or judicial factor is appointed over, any of the other party's property or assets;

13.3.3 the other party ceases, or threatens to cease, to carry on business;

13.3.4 if the other party is in breach of any of the conditions of this Contract and fails to remedy such breach within 30 (thirty) days following the receipt of written notice of such from the non-defaulting party. For the purposes of this provision, a failure to pay the Price by the due date for payment will be deemed to be a breach of this Contract which is not capable of remedy;

13.3.5 the other party reasonably believes that any of the events mentioned above is about to occur in relation to the other party; or

13.3.6 any event analogous to any of those set out in Clauses 13.3.1 or 13.3.2 occurs in any jurisdiction outside England and Scotland.

Each party will be bound to give to the other party immediate notice if any of the events listed in Clauses 13.3.1, 13.3.2 or 13.3.3 occurs to it.

13.4 In the event that the Contract is cancelled or terminated:-

13.4.1 Purchaser will take all steps necessary to mitigate the costs and liabilities incurred by Purchaser in connection with such cancellation or termination; and

13.4.2 Purchaser will protect, preserve and deliver in accordance with Life Racing's instructions any of Life Racing's property related to the Contract, which is in Purchaser's possession at the date of such cancellation or termination.

- 13.5 In addition to any right of lien to which Life Racing may be entitled Life Racing will in the event of Purchaser's insolvency or bankruptcy be entitled to a general lien on all items of Purchaser's property or other property attributable to Purchaser then in Life Racing's possession (notwithstanding that such items or any of them may have been paid for). Such lien will subsist for the unpaid price of any Goods or Services or other items sold and delivered to Purchaser by Life Racing under this or any other contract.
- 13.6 Upon termination of the Contract for whatever reason, Life Racing will be entitled to set off any claim it might have against Purchaser against any sums otherwise due to Purchaser by Life Racing under of this or any other contract.
- 13.7 Termination of the Contract will not affect the accrued rights of Life Racing nor Life Racing's other rights and remedies.
- 14. General**
- 14.1 Except as may otherwise be stipulated in Writing, this Contract will constitute the entire agreement between Life Racing and Purchaser in respect of an order for any of the Goods and/or Services and will supersede and exclude all prior representations, proposals or agreements whether oral or in Writing.
- 14.2 The parties confirm that it is not their intention to confer any rights on any person who is not a party to this Contract by virtue of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 14.3 Life Racing may delegate the performance of any of its obligations or exercise of its rights hereunder to its duly appointed agents and in this event, Life Racing will tell Purchaser accordingly.
- 14.4 The Order Confirmation is personal to Purchaser and Purchaser may not assign or transfer or purport to assign or transfer to any other person any of Purchaser's rights or sub-contract any of Purchaser's obligations under the Contract without the prior consent of Life Racing in Writing.
- 14.5 A notice required or permitted to be given under this Contract
- 14.5.1 by Life Racing to Purchaser must be in Writing, marked for the attention of Purchaser's Contract Representative and sent to the address or fax number set out in the Order Confirmation or to such other address or fax number as Purchaser may notify to Life Racing from time to time in accordance with this Contract;
- 14.5.2 by Purchaser to Life Racing must be in Writing, marked for the attention of Life Racing's Contract Representative and sent to the address or fax number set out in the Order Confirmation, or to such other address or fax number as Life Racing may notify to Purchaser from time to time in accordance with this Contract.
- 14.6 No waiver by Life Racing of any breach of the Contract by Purchaser will be considered as a waiver of any subsequent breach of the same or any other provision.
- 14.7 If any Clause (or part of a Clause) of this Contract should be found not to be valid, lawful or enforceable by a court having proper authority or if the law changes so that it becomes invalid, unlawful or not enforceable to any extent then this Clause will apply. The Clause (or part affected) will be treated as having been deleted from the remaining terms of this Contract which will continue to be valid. In addition, the parties will use reasonable efforts to replace the deleted Clause (or part of it) with a valid replacement provision which is as close as possible to the one that has been deleted.
- 14.8 The Contract and these Conditions will be governed by and construed in accordance with the laws of England and Purchaser agree irrevocably to submit to the exclusive jurisdiction of the English courts.