

1. These Terms and Conditions (**Conditions**) apply to the Contract to the exclusion of any and all other terms that the Seller seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, and shall apply to all subsequent sales by Seller to Buyer whether expressly stated or not. In the event of any discrepancy between these Conditions and the terms of the Purchase Confirmation, the terms of the Purchase Confirmation shall prevail.

2. INTERPRETATION

- 2.1. The following definitions apply in these Conditions.

- (a) **Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- (b) **Conditions:** these terms and conditions as amended from time to time.
- (c) **Contract:** the contract between the Seller and the Buyer for the supply of Goods contained in the Purchase Confirmation together with these Conditions.
- (d) **Buyer:** the person or firm who purchases the Goods and/or Services from the Seller.
- (e) **Goods:** the products set out in the Offer/Order/Purchase Confirmation supplied by the Seller to be delivered to the Buyer.
- (f) **Delivery Location:** is the place of delivery specified in the Purchase Confirmation.
- (g) **Goods:** the goods (or any part of them) set out in the Purchase Confirmation.
- (h) **Purchase Confirmation:** is the document recording the agreement between the Buyer and Seller to sell and purchase the Goods which may be in the form of a formal document, or an email from a Party accepting an Order from the Buyer, or Offer from the Seller.
- (i) **Specification:** any specification for the Goods stated in the Purchase Confirmation.
- (j) **Order:** the Buyer's order for the purchase of Goods.
- (k) **Offer:** the Seller's offer for the supply of Goods.

3. BASIS OF CONTRACT

- 3.1. The Order constitutes an offer by the Buyer to purchase Goods in accordance with these Conditions. The Offer constitutes an offer by the Seller to supply Goods in accordance with these Conditions. The Purchase Confirmation is the acceptance of any Offer or Order whether in writing or orally and shall be deemed to incorporate these Conditions, at which point and on which date the Contract shall come into existence.
- 3.2. 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.
- 3.3. The Buyer may within 14 days of placing an Order amend or cancel an Order by written notice to the Seller whether or not the Seller has accepted the Order.

4. SPECIFICATION AND QUANTITY

- 4.1. The Seller warrants that on Delivery the Goods shall:
 - (a) conform with their description and any applicable Specification;
 - (b) be of merchantable quality;
 - (c) be of satisfactory quality and fit for purpose;
 - (d) conform to the quantities stated in the Purchase Confirmation
 - (e) be packed and labelled in a manner suitable for safe exports and/or transportation or as otherwise specified in the Purchase Confirmation; and
 - (f) comply with any applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 4.2. Buyer shall not be deemed to have accepted the Goods until it or its buyer or surveyor has had a reasonable time to inspect them or until a reasonable time after any latent defect has become apparent.
- 4.3. If the Goods are not as warranted under Clause 4.1 or a latent defect becomes apparent, the Buyer may reject the Goods and/or claim damages for all losses suffered as a result of the defective Goods or packaging. Buyer shall

provide notice of such defect or claim within 30 days of Delivery of the Goods or within 15 days of any latent defect becoming apparent.

- 4.4. In the event that the Buyer rejects the Goods under Clause 4.3 above, it shall notify the Seller and, without limiting any of its other rights or remedies, the Buyer may, at its option, require the Seller to repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 4.5. Buyer may inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to Delivery, and Seller shall use reasonable endeavours to facilitate such inspection and testing.
- 4.6. Buyer may appoint an independent surveyor to ascertain the weight of the Goods discharged at the Port of Discharge, and the Certificate of Weight so issued shall be final and binding for all purposes under this Agreement..
- 4.7. The Buyer's rights and remedies under Clause 4 are in addition to the rights and remedies available to it in relation to all warranties, conditions and terms implied by statute or common law.
- 4.8. The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

5. DELIVERY AND ACCEPTANCE OF THE GOODS

- 5.1. The Seller shall deliver the Goods to the Delivery Location on or by the time specified for delivery in the Contract (**Delivery**).
- 5.2. Unless otherwise specified in the Purchase Confirmation, Delivery shall occur in accordance with the relevant Incoterm specified.
- 5.3. If the Seller fails to deliver the Goods at the time of Delivery and Delivery Location specified in the Purchase Confirmation, the Buyer may:
 - (a) terminate the Contract with immediate effect;
 - (b) refuse to accept any subsequent attempt at Delivery;
 - (c) obtain replacement goods of similar description and quality and recover from the Seller the costs and expenses of obtaining such replacement goods; and
 - (d) claim damages for any other costs, expenses or losses incurred as a result of the Seller's failure to deliver.The Seller shall have no liability for any failure or delay to deliver the Goods to the extent that such failure or delay is caused by a Force Majeure Event or the Buyer's failure to comply with its obligations under the Contract.
- 5.4. The time of Delivery is of the essence.
- 5.5. With the prior written consent of the Buyer, the Seller may deliver the Goods by instalments, which may be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall entitle the Buyer to cancel any other instalment.

6. DOCUMENTATION

- 6.1. Seller shall be responsible for providing accurate sufficient documentation pertaining to the Goods to satisfy all port and customs authorities' requirements. Any losses arising out of or in connection with any documentary defect shall be for Seller's account.

7. TITLE AND RISK

- 7.1. The risk in the Goods shall pass to the Buyer on completion of Delivery.
- 7.2. Seller warrants that it has good title to the Goods at the time of Delivery, free from all encumbrances. Title to the Goods shall pass to the Buyer on completion of Delivery.

8. CHARGES AND PAYMENT

- 8.1. The price for Goods:
 - (a) shall be the price set out in the Purchase Confirmation; and
 - (b) shall be inclusive of VAT and any other sales taxes unless otherwise specified on the Order/Purchase Confirmation.
- 8.2. The Seller may invoice the Buyer at any time on or after completion of Delivery.
- 8.3. Unless otherwise specified in the Purchase Confirmation, the Buyer shall pay each invoice submitted by the Seller

within 60 Business Days from the date of Delivery of the Goods to the Buyer.

- 8.4. If the Buyer disputes the amount stated on any invoice, it shall notify the Seller in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Seller shall provide all such evidence as may be reasonably necessary to verify the disputed invoice. If the parties have not resolved the dispute with 10 days of the Buyer's notification, the dispute shall be resolved in accordance with Clause 13. Where only part of an invoice is disputed, the undisputed amounts shall be paid as set out in Clause 7.4. The Seller's obligations to supply the products shall not be affected by any payment dispute.
- 8.5. If the Buyer fails to make a payment due to the Seller under the Contract by the due date, then, without limitation to Seller's other remedies, 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 will accrue each day at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when that base rate is below 0%. In relation to payments disputed in good faith, interest under this clause is payable only after the dispute is resolved, on sums found or agreed to be due, from [●] days after the dispute is resolved until payment.
- 8.6. All amounts due under the Contract may be paid in with any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9. CONFIDENTIALITY

- 9.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, Buyers, clients or Sellers of the other party, except each party may disclose the other party's confidential information:
 - (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.2. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

10. TERMINATION

- 10.1. Without affecting any other right or remedy available to it, the Buyer may suspend or terminate the Contract with immediate effect by giving written notice to the other party if:
 - (a) the Seller commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 10 days after receipt of notice in writing to do so;
 - (b) the Seller 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), 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 or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - (c) the Seller suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the Seller's financial position deteriorates to such an extent that in the Buyer's opinion the Seller's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 10.2. Without affecting any other right or remedy available to it, the Buyer may terminate the Contract with immediate effect by giving written notice to the Seller if the Seller fails to deliver any of the Goods to the Delivery Location on or by the time specified for delivery in the Contract.
- 10.3. Without affecting any other right or remedy available to it, the Buyer may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Buyer and the Seller if the Seller fails to deliver the Goods in accordance with the Contract or any other contract between Buyer and Seller, or the Seller becomes subject to any of the events listed in Clause 11.1(b) to (d) or the Buyer reasonably believes that the Seller is about to become subject to any of them.

10.4. On termination of the Contract, the Buyer shall, within 30 days of termination, either:

- (a) pay to the Seller all of the Seller's outstanding unpaid invoices and interest; or
- (b) return all Goods which have not been fully paid for.

10.5. Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

10.6. Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.

11. FORCE MAJEURE

11.1. Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The Party directly affected by the Force Majeure Event (the **Directly Affected Party**) shall inform the other Party (the **Non-Affected Party**) immediately of the occurrence of the Force Majeure Event. The Directly Affected Party shall be entitled to suspend obligations affected by the Force Majeure Event, and the Non-Directly Affected Party may suspend any corresponding obligations, pending the cessation of the Force Majeure Event. Should the effect of the Force Majeure Event be ongoing for more than 3 months, the Non-Affected Party may terminate the contract.

12. SANCTIONS AND ANTI-BRIBERY

12.1. Each Party warrants to the other that at the time of entering into, and throughout performance of, the Agreement:

- (a) It has complied with, and will continue to comply with all applicable laws, statutes, regulations and codes relating to bribery and corruption, including but not limited to the Bribery Act 2010 and has suitable policies in place to ensure the compliance with such obligations; and
- (b) It is not and will not become subject to any sanctions regime and shall comply with all applicable sanctions restrictions

13. GENERAL

13.1. The Buyer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. The Seller shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

13.2. Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Purchase Confirmation. Any notice shall be deemed to have been received at 9.00 am on the Business Day after posting or transmission.

13.3. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision shall not affect the validity and enforceability of the rest of the Contract.

13.4. A waiver of any right or remedy under the Contract or by law or variation of the Contract is only effective if given in writing and shall not be deemed a waiver or variation of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

13.5. 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.

13.6. Unless it expressly states otherwise, 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.

14. GOVERNING LAW AND JURISDICTION

14.1. Any dispute arising out of or in connection with this Contract including any questions regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration before a sole arbitrator under the LCIA Rules, which Rules are deemed to be incorporated by reference into this Clause. The seat, or legal place of arbitration shall be London. The language to be used shall be English.

14.2. The Contract shall be governed by the substantive law of England and Wales.