

## **STANDARD CONDITIONS OF SALE**

### **1. DEFINITIONS**

“The Seller” means

“The Buyer” means the company, person, firm or other legal entity placing the order and acceptable to the Seller.

The Goods” means the goods, products and materials which are to be supplied by the Seller to the Buyer and shall include services when specified.

“The Contract” means any contract relating to for the Goods made between the Seller and the Buyer and shall incorporate the Quotation (if any), and these Standard Conditions of Sale.

“The Quotation” (if any) means the written proposal from the Seller to the Buyer for sale of the Goods, and shall include these Standard Conditions of Sale insofar as they are not expressly varied in the Quotation.

### **2. ACCEPTANCE OF CONTRACT**

The Contract is made and becomes binding only when the Seller provides written acceptance (including letter, fax or electronic mail) of the Buyer’s order. The Company herewith objects to and rejects all terms and conditions contained in Buyer’s order that conflict with, are additional to or differ from these Standard Conditions of Sale. The Buyer’s order is expressly conditional upon these Standard Conditions of Sale applying to the Contract and replacing conditions (if any) which may be printed on the Buyer’s documentation unless specifically varied in writing prior to or in the Seller’s written acceptance of the Buyer’s order. In addition, receipt of the Goods by the Buyer shall be deemed to be conclusive proof that the Buyer has accepted these Standard Conditions of Sale.

### **3. VARIATION**

Variation of the Contract terms after the Contract is made shall be of no effect unless specifically agreed by both parties in writing.

### **4. DELIVERY**

Delivery shall be deemed to have taken place at the Company’s place of business when the Goods have been transferred to the Buyer’s freight carrier unless otherwise specifically agreed in writing by the Seller. Risk of loss or damage to the Goods passes to the Buyer on the Company’s delivery of the Goods to the freight carrier. Delivery dates are given in good faith and the Company will use its best efforts to adhere to them. Time is not the essence and the Company shall be under no liability for any loss or damage arising directly or indirectly out of late delivery. Subject to the warranties hereinafter contained, the Buyer shall be deemed to have accepted the Goods as being in conformity with the Contract and shall be bound to pay for them unless written notice of defect or shortage is given within ten days of delivery.

### **5. CARRIAGE**

Unless otherwise expressly agreed in writing, the Buyer shall be responsible for shipment of the Goods and any freight charges, and for all risk of loss or damage to the Goods and insurance thereof from and after the time the Goods are delivered to the freight carrier at the Company’s loading dock. The Buyer shall insure the Goods to their full value against loss or damage and maintain such insurance until the Company has been paid.

6. **PAYMENT**

- a) Payment shall be as per agreement prior to order being accepted by the Seller. Such invoice or Pro-forma is deemed to have been delivered two working days after the date thereon.
- b) Where it is agreed that the Contract is to be or may be fulfilled by stage payments or deliveries then payment for each shall be invoiced and shall be separately due as in (b) above. If a stage payment becomes overdue then the whole balance shall become due without prejudice to any other rights hereunder.
- c) If the Buyer fails to comply with the terms as to payment, the Company shall be entitled to interest on any amount overdue at the rate of 3% per annum above the base lending rate of HSBC Bank PLC as announced from time to time.

7. **PRICES**

- a) Prices and stage payments are as quoted or confirmed by the Seller or if not quoted will be those prevailing at the date of shipment of the Goods.
- b) Prices are exclusive of all taxes, including VAT, sales taxes and other taxes unless otherwise stated. All prices are quoted in pounds sterling unless otherwise agreed.

8. **STORAGE**

If the Buyer does not make appropriate arrangements to accept delivery of the Goods in accordance with the Contract within seven days after the date of notification that the Goods are ready for shipment, then the Buyer must arrange storage and pay for storage and if the Buyer fails to make such arrangements, then the Company may arrange storage at the Buyer's expense without prejudice to the terms of payment. If the Company's storage facilities permit, it will store the Goods for Buyer at a charge of £2.00 per sq. ft. per week until the Goods are shipped.

9. **WARRANTIES**

- a) The Company warrants that the Goods shall comply with any agreed specification and will be free from defects in material and workmanship for a period of six (6) months from the date of delivery unless expressly agreed otherwise by the Seller in writing. This warranty will not apply to any Goods (i) which have been repaired or altered by someone other than the Company; (ii) which have been subject to misuse, negligence or alteration; or (iii) which have not been maintained, operated or used in accordance with the Company's printed instructions or beyond the factory rated capacity. The company expressly disclaims all other warranties of every kind and nature, whether express or implied by law, as to the quality, merchantability or fitness for any particular purpose, or otherwise.
- b) In the event of any breach of the warranty provided in Paragraph a) above, the Company will, free of charge, repair, or at its option replace, any defective Goods manufactured by it, provided that the Goods are returned freight prepaid to the Company's place of business within the specified warranty period. If inspection by the company does not disclose a defect with the terms of the warranty, the Company's regular charges will be payable. No claim will be accepted for expenditure in altering or repairing any Goods, without prior written approval of the Company. Upon expiration of the warranty period, all liability of the Company hereunder shall terminate.
- c) The Buyer shall be solely and exclusively responsible for ascertaining if the Goods are suitable for the purpose intended.
- d) Under no circumstances will the Company be liable for any economic, special, incidental or consequential loss or damage or loss of profit or production suffered by

the Buyer or any third parties. The Company's liability arising out of the manufacture, sale or use of the Goods, whether such liability is based upon breach of warranty, breach of contract, negligence, strict liability, tort liability or otherwise, will not, in any event, exceed the total purchase price paid to the Company by the Buyer for the Goods. Under no circumstance will the Company be liable for any loss or damage against which the Buyer has insured. Upon expiration of the warranty period, all liability of the Company hereunder shall terminate. All other liability is hereby waived by the Buyer.

- e) In the event of the Company supplying Goods not designed and manufactured by it, such goods, equipment or products will only carry such warranty as is provided by the manufacturer and no further liability there shall apply to the Company.
- f) The warranties and remedies stated above exclusive and are in lieu of all other warranties and remedies, whether statutory, express or implied arising out of the Company's manufacture or sale of the Goods and Buyer's sole and exclusive remedies arising out of the purchase, operation or use by it of the Goods.
- g) Nothing in the above sub-clauses is intended to reduce or limit the strict liability in respect of the Goods imposed by statute on the Seller arising out of death or injury to persons or damage to third party property.

**10. TITLE TO THE GOODS**

- a) The property in the Goods shall remain in the Company until such time as the Company has been paid in full for the Goods and until all other outstanding accounts due from the Buyer to the Company have been paid in full.
- b) While the Goods remain in Buyer's inventory awaiting sale or further processing or where they have been processed by remain identifiable and capable of separation, the Buyer shall label or distinguish them or shall maintain records in such manner so that the Goods can be identified as having been supplied by the Company.
- c) If the Buyer shall fail to make any payment when due, or (i) if a receiver or administrator is appointed for the Buyer or for any of its assets, or (ii) if a liquidator is appointed or, (iii) if the Buyer goes into voluntary liquidation or calls a meeting of or makes an arrangement or composition with creditors, or (iv) upon the commencement of any voluntary proceeding in bankruptcy by the Buyer, or (v) if any involuntary proceeding in bankruptcy is initiated against Buyer and such proceeding is not dismissed within sixty (60) days after the filing date, or (vi) if distress or execution is threatened or levied on the Goods the Company shall be entitled without prior notice to enter upon any premises of the Buyer to repossess and remove or at the Company's election to label, mark or list the Goods.

**11. INDEMNITY**

- (1) The Buyer will indemnify the Company against any loss or damage or injury to persons or property suffered by the Company and from and against any claim in respect of loss, damage or injury to persons or property made against the Company by third parties and any costs and expenses arising in connection therewith (including fees and expenses of attorneys) which result from Buyer's failure to comply with any of the terms of the order or result from Buyer's negligence or which result from the Buyer's incorporation of the Goods into any other product (in the latter event, not if the defect is the Company's responsibility).
- (2) The Buyer will indemnify the Company against all claims, costs and expenses resulting from any infringement of any patents, registered trade marks or trade names, registered designs, unregistered design rights, copyright, or any passing off

action, or license agreements and assist in the defence of any action brought against the Company insofar as any infringement is due to designs or specifications provided by the Buyer.

- (3) Without prejudice to (1) and (2) above the Company reserves the right to cease work on any order being carried out if it should have reason to believe that the Goods are subject to an infringement claim, in which case title to the work done shall not pass to the Buyer (except at the Company's discretion) and the Company shall be entitled to be paid for work done and materials supplied.

**12. INTELLECTUAL PROPERTY RIGHTS**

Ownership of the design rights and any other intellectual property rights in the Goods and drawings shall remain with the Seller unless specifically agreed otherwise by the parties in writing.

**13. TESTING**

If the Buyer requires testing or inspection of the Goods before delivery, the Company reserves the right to stipulate the location at which such testing or inspection shall take place, and all expenses of such testing or inspection shall be paid by the Buyer. An adequate supply of suitable materials for inspection and testing purposes must be supplied by the Buyer. If, after seven days' notice that the Company is prepared to proceed with the tests, there is any delay on the part of the Buyer or its representatives in supplying the materials or in attending such tests, payment shall be deemed to be due as if the tests have been completed and shipment of the Goods has been made.

**14. TOOLING**

All tooling made by the Company pursuant to this Contact will remain the Company's property, provided, however, that if the Buyer has agreed to pay for such tooling then the ownership will pass to the Buyer on payment in full having been made. If the Company is using the Buyer's tools it will repair any damage caused to them solely and exclusively by reason of the Company's negligence and shall maintain them (fair wear and tear excepted) but otherwise they remain the Buyer's responsibility.

**15. CONSIGNMENT STOCK**

In addition to all other terms hereof the following procedures shall apply if the parties mutually agree that consignment stock is to be stored at the Buyer's premises. When the Company delivers Goods designated as consignment stock the details of which shall be on the bill of lading, the Buyer shall check, sign and return the bill of lading and place the consignment stock indoors in a distinct area designated for the Company's consignment stock and shall keep the same clearly labelled as being the property of the Company. The Buyer shall keep the consignment stock fully insured against fire, theft and associated risks. The Company may in business hours on giving notice, as often as it wishes, enter the Buyer's premises and inspect, audit, or remove the consignment stock.

When the Buyer wishes to transfer the consignment stock out of the designated area for its use, it must first place a purchase order (which shall be deemed to incorporate these Standard Conditions of Sale) and wait for receipt of the Company's invoice by way of acceptance of the order.

**16. CATALOGUES/ADVERTISEMENTS**

The description of Goods in the Seller's catalogues or advertisements is given for identification only and shall not imply that the sale under the Contract is a sale by deception.

17. **PACKAGING**

The Seller shall pack the Goods as it deems appropriate unless otherwise agreed in writing. Any pallets shall be returned by the Buyer or be charged for them.

18. **FORCE MAJEURE**

Neither party shall be liable for delays in fulfilling the terms of the Contract which result from circumstances outside the control of the parties.

19. **WAIVER**

No concession by either party in respect of the performance of the terms hereof shall be construed as a waiver of their rights and remedies hereunder.

20. **THIRD PARTY RIGHTS**

No term of the Contract shall be enforceable by a third party in his, her or its own right by virtue of section 1 (1) of the Contracts (Right of Third Parties) Act 1999.

21. **LIEN**

Without prejudice to any other rights and remedies which the Company may have under the Contract, the Company shall, in respect of all debts of the Buyer to the Company, have a general lien on all goods and property belonging to the Buyer in the Company's possession (whether worked on or not) and shall be entitled, upon the expiration of fourteen days notice to the Buyer, to dispose of such goods or property as it thinks fit and to apply any proceeds of sale thereof towards the payment of such debts.

22. **BREACH OF CONTRACT**

If the Buyer, for any reason whatsoever, fails within two calendar months either to make any payment which may be due or remedy any other breach of the Contract after receiving notice from the Company requesting such breach to be remedied, then the Company may without prejudice to any other rights be entitled forthwith to suspend performance of or terminate the Contract and the Buyer shall be responsible for the payment of all work done and services rendered to the date of termination regardless of whether the Buyer has received benefit, as well as all other incidental or consequential damages. The Buyer shall pay to the Company at the Contract rate for all work done, materials used, and goods delivered up to and including the date of termination and shall in addition indemnify the Company against any resulting loss, damage or expense incurred by the Company in connection with the supply or non-performance of the Contract including the cost of any material, plant or tools used on intended to be used therefore and the cost of labour and other overheads.

23. **ASSIGNMENT**

This Contract cannot be assigned by the Buyer without the written consent of the Company.

24. **LAW OF CONTRACT**

Any Contract made on the basis of these Terms and Conditions of Sale and all matters arising therefrom shall be governed by and construed in accordance with English Law and any actions shall be tried in the English Courts or (if the parties agree) any dispute or difference of any kind whatsoever which arises or occurs between the parties in relation to any thing or matter arising under, our of or in connection with this agreement shall be referred to arbitration under the Arbitration Rules of the Chartered Institute of Arbitrators.