

1. DEFINITIONS

In these Conditions, the following definitions apply:

"Conditions" means the terms and conditions set out in this document as amended from time to time in accordance with clause 22.

"Contract" means the contract between You and Us for the sale and purchase of the Goods in accordance with these Conditions.

"Goods" means the goods (or any part of them) set out in the Order.

"Order" means Our order for the Goods placed by a duly authorised officer of Our Purchasing Department against a purchase order number issued by Us.

"Specification" means any specification for the Goods agreed in writing by Us and You including any related plans and drawings.

"We, Us and Our" means Fusion Group Limited of Smeckley Wood Close, Chesterfield Trading Estate, Chesterfield, S41 9PZ (registered under company number 3563691).

"You or Your" means the legal entity from whom We are purchasing the Goods

2. BASIS OF CONTRACT

- a. These Conditions shall apply to the Contract to the exclusion of all other terms and conditions which You may seek to incorporate or which are implied by trade, custom, practice or course of dealing.
- b. The Order constitutes an offer by Us to purchase the Goods in accordance with these Conditions. The Order shall be deemed to be accepted by You upon the earlier of Your written acceptance of the Order or commencement of execution of the Order, at which point the Contract will come into existence.
- c. We shall accept no liability for any Goods delivered or services provided other than pursuant to an official Order and Our order number must be quoted on all delivery and invoice documentation.

3. THE GOODS

- a. The Goods shall:
 - i. conform in every respect as to quality, quantity, characteristics and specifications with the particulars stated in the Order, any applicable Specification, and any samples or descriptions provided by You in any tender or literature, provide that if there is any inconsistency between such other description and the Order and / or Specification then the Order and / or Specification shall prevail;
 - ii. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by You or made known to You by Us expressly or by implication, and in this respect We rely on Your skill and judgement;
 - iii. be free from defects or faults in design, material and workmanship and remain so for twelve (12) months after delivery or such longer period as may be stated in any guarantee given by You or agreed with Us in writing; and
 - iv. comply with all applicable statutory and regulatory requirements and accepted industry standards relating to the manufacture, design, supply, labelling, packaging, storage, handling and delivery of the Goods.
- b. You will inform Us immediately of any modification affecting the performance or essential specified characteristics of the Goods or any tooling associated with the Goods You consider necessary during commissioning or manufacture. We shall not be bound to accept any modification unless We have agreed to do so in writing.

4. PRICES

- a. The price for the Goods shall be the price set out in the Order, and is fixed unless otherwise agreed by Us in writing. The price includes the costs of packaging, insurance and delivery of the Goods to the destination stipulated in the Order.
- b. The price of the Goods is exclusive of VAT and We shall pay such additional amounts in respect of VAT as are chargeable on the supply of the Goods upon receipt of a valid VAT invoice.

5. PAYMENT

- a. You may invoice Us for the Goods on or within three days' of date delivery and all invoices must be sent to the invoice address stipulated within the Order. We will pay correctly rendered invoices at the end of the month following that month in which the invoice is received, provided such Goods comply with the Contract. These payment terms shall only be amended by agreement in writing.
- b. If a party fails to make any payment due to the other under the Contract by the due date for payment, then the non-defaulting party shall be entitled to require the defaulting party to pay interest on the overdue amount at the rate of 4% per annum above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.
- c. Without prejudice to our other rights and remedies We may set-off and deduct from any sums due to You under the Contract any sums owed to Us by You (whether liquidated or not) irrespective of whether the liability to pay those sums arose under or in connection with the Contract.

6. PACKAGING

You will package the Goods in a manner suitable for transit and/or storage at no cost to Us. We will not pay for or return packing materials, unless previously arranged and confirmed in writing.

7. DELIVERY

- a. You shall deliver the Goods on the date specified in the Order, or, if no such date is specified, within 14 days of the date of the Order.
- b. The Goods shall be delivered to the location set out in the Order or as instructed by Us prior to delivery and delivery shall be completed upon the completion of the unloading of the Goods at the delivery location.
- c. Delivery shall take place during normal working hours or as instructed by Us and each delivery of the Goods must be accompanied by a delivery note which shows the date of the Order, our Order number and the type and quantity of the Goods.
- d. Time for delivery shall be of the essence and in the event of the Goods not being delivered on the date(s) specified in the Order We will retain the right to cancel the Order.
- e. You will not deliver the Goods in instalments without Our prior written consent. However, failure by You to deliver any one instalment on time or at all or any defect in an instalment shall entitle Us to the remedies set out in clause 11 in respect of the whole of the Order.
- f. We reserve the right to make our own alternative delivery arrangements and claim an allowance equal to any carriage charge included in your price for the Goods.

8. PASSING OF PROPERTY AND RISK

Delivery of the Goods shall be undertaken by You at Your own risk (including the risk of deterioration of the Goods during transit) and property and risk in the Goods shall pass to Us on delivery or (in the case of delivery by instalments) on the delivery of each instalment. Where the Goods or any part of them though ready for delivery are retained by You pending delivery instructions, then the property in such Goods shall pass to Us upon payment, but the risk in such Goods shall remain with You until completion of delivery.

9. INSPECTION AND TESTING

- a. Prior to acceptance You shall inspect and test the Goods for compliance with the Contract. You shall, if requested by us, supply certified copies of records of such inspection and tests free of charge.
- b. Notwithstanding clause 9a you will grant to Us, Our nominated representative or customer, a right of access at all reasonable times to inspect and test the Goods, monitor progress against the Order and / or witness the testing and inspection procedures.
- c. If following such inspection or testing We consider that the Goods do not conform or are unlikely to comply with the requirements at clause 3, We will inform You and You shall immediately take such remedial action as is necessary to ensure compliance.
- d. Notwithstanding any such inspection or testing, You will remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect Your obligations under the Contract or any law.

10. DETERIORATION OF GOODS

If the Goods are perishable or have a life expectancy of a fixed duration or if there are any circumstances known to You which adversely affect the life-span of the Goods you will forthwith advise Us in writing and provide Us with all necessary and appropriate information relating to such Goods.

11. REMEDIES

- a. If the Goods are not delivered on the delivery date specified in the Order, or do not comply with the undertakings set out in clause 3, or it is clear that You will be unable to comply with the Contract, then, without limiting any of Our other rights or remedies, We shall have the right to any one or more of the following remedies, whether or not We have accepted the Goods:
 - i. to terminate the Contract;
 - ii. to reject the Goods (in whole or in part) and return them to You at Your own risk and expense;
 - iii. to require You to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;
 - iv. to refuse to accept any subsequent delivery of the Goods which You may attempt to make;
 - v. to recover from You any additional costs incurred by Us in obtaining substitute goods from a third party;
 - vi. to carry out at Your expense such work as may be necessary to make the Goods or any part thereof comply with the Contract; and
 - vii. to claim damages for any other costs, loss or expenses including but not limited to loss of profit, incurred by Us which are in any way attributable to Your failure to carry out Your obligations under the Contract.
- b. These Conditions shall apply to any repaired or replacement Goods supplied by You.

12. FORCE MAJEURE

- a. If a party is prevented, hindered or delayed from or in performing any of its obligations under the Contract as a result of any breakdown of plant or apparatus, fire, flood, earthquake, war, civil commotion, explosion, malicious damage, accident, industrial or labour dispute (excluding in all cases, by the employees of the party liable to effect performance or its sub-contractors), or any other event or cause beyond its reasonable control ("Force Majeure Event") the requirement to comply with its obligations will be suspended for as long as, and to the extent that, performance is prevented, hindered or delayed by that Force Majeure Event.
- b. If the suspension continues for more than 30 days either party may terminate the Contract by giving not less than 14 days' notice in writing to the other. If the suspension comes to an end during that notice period the notice of termination will still be effective. In the event that the Contract is terminated by either party as a result of a Force Majeure Event experienced by You, We shall be entitled to recover from You any sums of money expended by Us in connection with the Order.

13. ASSIGNMENT AND SUB-CONTRACTING

- a. You shall not without Our prior written consent (i) assign or otherwise transfer all, or any of Your rights, obligations or liabilities under or in connection with the Contract; or (ii) sub-contract the performance of any of Your obligations under the Contract. To the extent that sub-contracting is permitted by Us You will be responsible for all acts and omissions of all of Your sub-contractors as if they were Your own.
- b. We may assign or otherwise transfer all or any of Our rights, duties or liabilities under or in connection with the Contract without Your consent.

14. CONFIDENTIALITY

- a. Any Order received from Us and the subject matter thereof shall be treated as confidential by You and shall not be disclosed or publicised to any third party for any reason without Our prior written consent except as required by any applicable law, governmental or regulatory authority or by a court of competent jurisdiction.
- b. You will not use Our name or other identity for advertising or publicity purposes without Our prior written consent.

15. OUR MATERIALS

- a. You acknowledge that all data, drawings, patterns, tooling of any kind, written instructions, specifications and other technical papers supplied by Us or produced by You at Our cost for the purposes of fulfilling an Order ("Customer Materials") and all rights in such Customer Materials shall be and shall remain our exclusive property and where necessary you shall execute such assignments of rights in the Customer Materials to Us as we may reasonably request to give effect to this clause 15a. You hereby consent to any act or omission by Us which, if not for this consent, would infringe your moral rights in the Customer Materials.
- b. We grant You a non-exclusive, non-transferable licence to use the Customer Materials for the limited purpose of complying with Your obligations under the Contract only.
- c. You will not copy, publicise or make available to any third party the Customer Materials, and shall return these to Us on demand free of charge. You will keep the Customer

Materials safe and be responsible for replacing any item lost or damaged in reasonable time and at your cost. You will not modify such items except on our express instructions.

16. INDEMNITY

- a. You shall indemnify Us and keep Us indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct or indirect losses, loss of profit, loss of reputation and all interest, penalties and legal and professional costs) suffered or incurred Us as a result of or in connection with:
 - i. any claim made against Us in respect of any actual or alleged infringements of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods except to the extent that the claim is attributable to Our acts or omissions;
 - ii. any claim made against Us by a third party for death, personal injury, damage to property or other losses arising out of or in connection with defects in the Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of You, Your employees, agents or sub-contractors; and
 - iii. any claim made against Us by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by You, Your employees, agents or subcontractors.
- b. This clause 16 shall survive termination of the Contract.

17. INSURANCE

- a. During the term of the Contract and for a period of three years thereafter You shall maintain in force, with a reputable insurance company product liability insurance and public liability insurance as appropriate to cover the liabilities that may arise under or in connection with the Contract, and shall, at Our request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- b. You will insure to their full replacement value any goods, tools, material and any other property provided by or through Us to You for Your use while they are in Your possession or in the possession of Your employees, agents, carriers or subcontractors and You shall hold any insurance monies payable under this clause 17b on trust for Us.

18. TERMINATION

- a. We may terminate an Order in whole or in part at any time before delivery with immediate effect by giving You written notice, whereupon You shall discontinue all work on the Order. We shall pay You fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- b. Without limiting Our other rights or remedies, We may terminate the Contract with immediate effect upon written notice to You if:
 - i. You commit a material breach of any term of the Contract (being a single event or a series of events which together constitute a material breach), which is incapable of remedy or which if capable of remedy has not been remedied by You within 14 days of receipt of a written notice identifying the material breach and requiring it to be remedied;
 - ii. You enter into an arrangement, compromise or composition in satisfaction of Your debts with Your creditors or any class of them;

- iii. You suspend, or threatens to suspend, payment of Your debts, or are unable to pay your debts as they fall due;
 - iv. You pass a resolution or make a determination for You to be wound up (except for the purposes of a solvent amalgamation or reconstruction);
 - v. You have a winding up order or bankruptcy order made against You;
 - vi. You appoint or have an administrator appointed of You;
 - vii. You have a receiver or administrative receiver appointed of You or of the whole or any part of Your assets;
 - viii. You cease or threaten to cease to carry on the whole or a substantial part of Your business or it is dissolved; or
 - ix. You suffer any event or takes any step analogous to the events or steps set out in clauses 18(ii) to 18(viii) inclusive in any jurisdiction other than England and Wales.
- c. Termination of the Contract will not prejudice any obligations or rights or remedies of either of the parties which have accrued before termination or expiry and shall not affect any provision of these Conditions which is expressly, or by implication, intended to come into effect on, or to continue in effect after, such termination or expiry.

19. WAIVER AND CUMULATIVE REMEDIES

- a. Any delay or failure by a party in exercising, or any waiver by a party of, its rights under or in connection with the Contract will not limit or restrict the future exercise or enforceability of those rights.
- b. The rights and remedies under the Contract are in addition to and, except where otherwise expressly provided in the Contract, do not exclude, any rights and remedies provided by law (including equitable remedies) or otherwise.

20. SEVERANCE

If any provision (or part of any provision) of these Conditions is, or becomes illegal, invalid or unenforceable in any respect: (a) it will not affect or impair the legality, validity or enforceability of any other provision of these Conditions; and (b) that provision (or part provision), will be deemed deleted.

21. THIRD PARTY RIGHTS

A person who is not a party to the Contract will not have any right under the Contracts (Rights of Third Parties) Act 1999 ("CRTPA") to enforce any term of the Contract. This will not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to CRTPA.

22. VARIATION

Except as set out in these Conditions, no variation of the Contract will be valid unless it is in writing and signed by Us.

23. GOVERNING LAW AND JURISDICTION

The Contract and any dispute or non-contractual obligation arising out of or in connection with it will be governed by, and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute arising out of or in connection with the Contract and these Conditions.