



## TERMS AND CONDITIONS OF SALE

### DEFINITIONS

In these conditions of Sale the following capitalised words have the meanings below

'the **Company**' means Technical Service Consultants Limited registered number 01494701

'the **Buyer**' means any company, firm, or individual from whom the Company receives an order which the Company has accepted:

'the **Goods**' means the product, materials, equipment and/or services to be supplied by the Company

'**Specification**' means the technical description (if any) of the Goods contained or referred to in the order.

References:

to statutory provisions shall be construed as references to those provisions as respectively replaced, amended or re-enacted (whether before or after the date hereof) from time to time and shall include any provisions of which they are re-enactments (whether with or without modification) and any subordinate legislation made under such provisions.

Words importing the singular include the plural and vice versa, wordings importing a gender include every gender and references to persons include bodies corporate or unincorporate.

The headings are for convenience only, have no legal effect and shall not affect its interpretation.

The **Company** accepts orders for the supply of **Goods** subject only to these conditions.

No variation of these conditions shall be valid or binding on the **Company** and these conditions shall override any inconsistent terms or conditions contained or referred to in any order, or correspondence of the **Buyer** or elsewhere unless such variation is made and accepted in writing by the **Company**.

### LIMITATION OF LIABILITY

Except for death or personal injury caused by the negligence of the **Company**, the **Company's** aggregate liability to the **Buyer** howsoever arising whether for negligence, breach of contract, misrepresentation or otherwise shall under no circumstances exceed the cost of the defective, damaged or undelivered **Goods** which give rise to such liability as determined by the net price invoiced to the Buyer in respect of any occurrence or series of occurrences.

Unless fixed prices have been specifically agreed in writing by the Company notwithstanding any offer, quotation, tender price or price list, all prices are subject to alteration without notice and **Goods** will be invoiced at prices ruling at time of despatch. Unless otherwise agreed in writing all prices are strictly net of delivery charges, VAT and any other tax or duty which shall be added to the price payable by the **Buyer**.

Accounts are payable strictly as specified on the **Company's** invoice. Usually this will be 30 days net; that is cleared payment is required 30 calendar days following the invoice date.

Credit terms may be offered subject to satisfactory credit vetting of the **Buyer** by the **Company**. Any offer of credit will be at the sole discretion of the **Company**.

Payment of outstanding and or overdue amounts in full shall be a condition precedent to any further deliveries.

The **Company** reserves the right to charge interest on late payment of 1.5% per month above the base rate quoted by Santander UK plc from time to time from the due date until full payment is received.

The contract price shall be paid in Pounds sterling.

Where credit terms are not strictly adhered to the **Company** reserves the right to withdraw this facility at any time. In cases where credit is not offered payment will be required before release of **Goods** by the **Company**.

For the avoidance of doubt, whether specified on the invoice or not and whether included on any provided statement of account or not, the Late Payment of Commercial Debts (Interest) Act 1998 (as amended) shall apply to all **Goods** supplied by the **Company** to the **Buyer**

No claim by the **Buyer** under warranty or otherwise shall entitle the **Buyer** to any deduction, retention or withholding of any part of any sums due for payment hereunder. The **Buyer** shall not be entitled to any set off or obligations within or between contracts with the **Company**. All bank charges and import and customs duties and taxes arising from or by virtue of the contract must be paid by the **Buyer**.

Dates quoted for delivery are estimated only and not conditions of sale. No claim shall be made by the **Buyer** nor shall the **Buyer** refuse to accept delivery on the grounds of any failure to deliver on any particular date or dates.

Delivery shall be deemed to be effective when the **Goods** are unloaded at the delivery address nominated by the **Buyer** or his agent for delivery, save where the **Goods** are to be collected by the **Buyer** or his agent, delivery shall be deemed to be effective when the **Goods** are loaded onto the vehicle collecting them. The **Company** reserves the right to deliver **Goods** by instalments and in such event each instalment shall be treated as a separate contract provided that deliveries of further instalments may be withheld until the **Goods** or materials comprised in earlier instalments have been paid for in full.

Prices shown in quotations or contracts will include the cost of the **Company**'s normal packaging for destinations in the UK or for export unless stated otherwise. Any other forms of packaging supplied at customer's request will be charged extra.

If the **Buyer** refuses or fails to take or accept delivery of the **Goods** at the time specified, the contract price shall nevertheless be paid as if delivery has taken place. The **Company** shall be entitled at its option to terminate the contract with immediate effect, to dispose of the **Goods** as the **Company** may determine, and to recover from the **Buyer** any loss and additional costs incurred as a result of such refusal or failure or to charge the **Buyer** for storage and other loss and expense reasonably incurred or suffered by the **Company** as a result of such refusal or failure but the **Company** shall not be bound to take any steps for the custody and care of such **Goods** and shall not be liable for any loss or damage suffered by the **Buyer** arising therefrom.

#### TITLE

The absolute legal and beneficial ownership in all **Goods** shall remain vested in the **Company** and shall not pass to the **Buyer** until the purchase price of the order of which they form part (each order being considered as a whole) and all other monies owing by the **Buyer** to the **Company** on any account shall have been paid in full by the **Buyer** to the **Company**.

Until such payment has been made, the **Buyer** shall hold the **Goods** sold as bailee of the **Company** hand in a fiduciary capacity and shall not sell, dispose of, process or use the **Goods** except with the express written permission of the **Company** and on condition that if authorised to resell the **Goods** to a third party, the **Buyer** shall not mingle any proceeds of sale with any other monies and shall at all times keep them in a separate bank account and identifiable as the **Company**'s monies and shall forthwith account to the **Company** for the proceeds of sale to the extent of the **Buyer**'s indebtedness to the **Company**.

Pending receipt of payment made in accordance with these conditions the **Goods** shall be set aside and stored separately from other **Goods** in the possession of the **Buyer** so as to be clearly and separately identifiable and the **Buyer** shall deliver them upto the **Company** at any time on demand.

In the event that the **Buyer** shall breach any of its obligations under these conditions or under any other agreement between the parties, the **Company** reserves the immediate right to repossess all or any of the Goods to which it has retained title aforesaid and thereafter to resell the same. This right shall continue to subsist notwithstanding the termination of the contract for any reason and is without prejudice to any accrued rights of the **Company** hereunder or otherwise.

#### RISK

The risk in the Goods shall pass to the **Buyer** upon delivery.

The **Buyer** shall insure the **Goods** with a reputable insurance company and if the same are damaged or destroyed, then such insurance monies as are payable shall be immediately paid by the **Buyer** to the **Company** to the extent of the indebtedness of the **Buyer** to the **Company** and without prejudice to any right of the **Company** to recover from the **Buyer** any balance of the purchase price remaining due under the contract.

In the event of any loss or damage or delay to any **Goods** delivered at our risk to the **Buyer** or to his agent or otherwise to his order notice of the same shall be given to us in writing by the **Buyer** forthwith upon delivery (or, in the case of loss of any **Goods**, at the time when the **Goods** should have been delivered) and the **Buyer** shall at the same time take all necessary steps to notify the carrier in writing of any such loss damage or delay and where practicable shall enter a note of the same upon the carriers receipt. If by reason of the failure of the **Buyer** to give any such notice as provided above, the **Company** is precluded from making a recovery from the carrier in respect of the loss damage or delay complained of then the **Company** shall not be liable for any claim by the **Buyer** in respect thereof and the **Buyer** shall be liable to pay for the Goods as though no such loss damage or delay had occurred.

The Company warrants that the **Goods** shall be in conformity with the Specification or be within its usual tolerances as to quality. The **Company** shall replace or at its option refund the purchase price as applicable to any **Goods** which do not in its sole opinion comply with this warranty, provided always that any claim under this warranty is made within 24 hours of commencement of the processing of the Goods or (if earlier) within 28 days of delivery of the **Goods** alleged to be defective.

It is the **Buyer's** responsibility to determine whether the **Goods** are suitable for the contemplated use, whether or not such use is known to the **Company**. No warranty, condition or representation is given or made as to the quality of the **Goods** supplied hereunder, their condition or their fitness for any particular purpose and any such warranty, condition or representation whether express or implied whether by statute, by collateral agreement or otherwise is hereby excluded.

Under normal trading circumstances, the **Company** does not accept the return of any products that meet the product warranty criteria outlined in these terms.

The **Buyer** may cancel or suspend the contract only with the **Company's** prior written consent following agreement by the **Buyer** to reimburse the **Company** in an amount to be determined by the **Company** for any costs incurred up to the date of receipt of the notice of such cancellation.

The **Company** shall (without prejudice to any of its other rights hereunder) be entitled to terminate any contract forthwith by written notice to the **Buyer** if the **Buyer** shall:

- (a). Become insolvent.
- (b). Fail to pay any amounts falling due (whether under these conditions or otherwise) to the Company within

30 days of the date payment is due.

(c). Have a Receiver appointed.

(d). Pass a resolution for winding-up (other than for purposes of reconstruction or amalgamation)

(e). Commit a breach of any term of the contract or any other contract with the **Company**.

#### FORCE MAJEURE.

If the commencement, continuation or complete performance by the **Company** of its obligations under this contract is prevented, hindered, delayed or rendered uneconomic by reason of force majeure then the **Company** shall not be responsible to the Buyer for any loss or damage incurred or sustained by the **Buyer** as a result. For the purpose of this condition, the term Force Majeure shall include any factor affecting the performance of this contract attributable to acts, events, non-happenings, omissions or incidents beyond the reasonable control of the **Company** and, in particular, (but without limiting the generality of the foregoing), the following, namely: strikes, lock-outs, riots, civil revolution, war, state of national emergency of governmental action, trade dispute or labour disturbance, accident, break down of plant or machinery, difficulty or increased expense in obtaining workmen, materials or transport, fire, explosion, storm, flood, earthquake or other natural physical disaster or circumstances affecting the supply of the **Goods** (or the raw materials therefore) by **a Company's** normal source of supply or the delivery of the **Goods** by the **Company's** normal route or means of delivery.

Any notice hereunder shall be deemed to have been given if sent by pre-paid, first class post, fax or email to the party concerned at its last known address. Notices sent by first-class post shall be deemed to have been given 7 days after dispatch and notices sent by fax or email shall be deemed to have given on the date of dispatch.

#### JURISDICTION

All contracts made with the **Company** shall be governed by and construed according to the laws of England and the parties hereby submit to the sole and exclusive jurisdiction of the English courts.