

Terms and Conditions of Sale

1 DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following definitions apply:

"Affiliate" means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;

"Applicable Law" means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national or international in any relevant jurisdiction;

"Business Day" means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;

"Conditions" means the Supplier's terms and conditions of sale set out in this document;

"Confidential Information" means any commercial, financial or technical information, information relating to the Goods, plans, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by a party in performing its obligations under, or otherwise pursuant to, the Contract;

"Contract" means the agreement between the Supplier and the Customer for the sale and purchase of the Goods incorporating these Conditions and the Order, and including all documents to which they may refer to;

"Control" means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and "Controls", "Controlled" and "under common Control" shall be construed accordingly;

"Customer" means the named party in the Contract which has agreed to purchase the Goods from the Supplier and whose details are set out in the Order;

"Documentation" means any descriptions, instructions, manuals, literature, technical details or other related materials supplied in connection with the Goods;

"Force Majeure" means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or failure of any means of transport, equipment or telecommunications service, or material required for performance of the Contract, strike, lockout or boycott or other industrial action including those involving the Supplier's or its suppliers' workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;

"Goods" means the goods and related accessories, spare parts and Documentation and other physical material set out in the Order or understood by the parties to be included in the Goods and to be supplied by the Supplier to the Customer in accordance with the Contract;

"Location" means the address or addresses for delivery of the Goods as set out in the Order;

"Order" means an order for the Goods from the Supplier placed by the Customer in writing;

"Price" has the meaning given in clause 4.1;

"Supplier" means Dallmer Limited, a limited company registered in England and Wales under number 03235118 and a registered office at 4 Norman Way, Lavenham, Sudbury, Suffolk, CO10 9PY; and

"VAT" means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Goods;

1.2 In these Conditions, unless the context requires otherwise:

1.2.1 a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);

1.2.2 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;

1.2.3 a reference to a party includes that party's personal representatives, successors and permitted assigns;

1.2.4 a reference to a "person" includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;

1.2.5 a reference to a "company" includes any company, corporation or other body corporate, wherever and however incorporated or established;

1.2.6 a reference to a gender includes each other gender;

1.2.7 words in the singular include the plural and vice versa;

1.2.8 any words that include "includes", "including", "in particular" or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.9 a reference to "writing" or "written" includes any method of reproducing words in a legible and non-transitory form;

1.2.10 a reference to "legislation" is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time;

1.2.11 a reference to legislation includes all subordinate legislation made from time to time under that legislation; and

1.2.12 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing, shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

2 APPLICATION OF THESE CONDITIONS

2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.

2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.

2.3 No variation of these Conditions or to an Order or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each of the Supplier and the Customer respectively.

3 ORDERING

3.1 Each Order by the Customer to the Supplier shall be an offer to purchase the Goods subject to the Contract including these Conditions.

3.2 The Customer must quote the Supplier's relevant part numbers for the Goods on any Order. No liability will be accepted by the Supplier for interpreting any other description given for the Goods on an Order.

3.3 If the Supplier is unable to accept an Order, it shall notify the Customer as soon as reasonably practicable.

3.4 Some Goods may only be ordered in pack quantities. The Customer must confirm the number of packs of Goods when placing an order.

3.5 The offer constituted by an Order shall remain in effect and capable of being accepted by the Supplier for four weeks from the date on which the Customer submitted the Order, after which time it shall be deemed to be withdrawn.

3.6 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Goods shall arise, until the Supplier's written acceptance of the Order.

3.7 Subject to clause 4.4, Orders cannot be cancelled once accepted.

3.8 Rejection by the Supplier of an offer or any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.

3.9 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply the Goods and are incapable of being accepted by the Customer.

3.10 Marketing and other promotional material relating to the Goods are illustrative only and do not form part of the Contract.

3.11 Models and model test reports of any Goods will only be prepared subject to written agreement between the Customer and the Supplier and charged to the Customer in accordance with the resources required.

3.12 The Customer shall be responsible for ensuring the accuracy of the terms, Goods and specifications of any Order and the Supplier accepts no liability for any incorrect Goods ordered.

3.13 The Customer must ensure that any Goods ordered in accordance with any Customer specification do not breach any third party intellectual property rights.

4 PRICE

4.1 The price for the Goods shall be as advised by the Supplier from time to time ("the Price").

4.2 The Prices are inclusive of the Supplier's standard packaging but are exclusive of special packaging (if required), delivery, insurance, shipping carriage, and all other related charges or taxes or describe related elements of the goods which are not included in the standard price which shall be charged in addition at the Supplier's standard rates, and VAT (or equivalent sales tax).

4.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.

4.4 The Supplier may change the Prices at any time. Should the Supplier change the Price of the Customer's Order after the Order has been accepted, the Supplier will notify the Customer of the change and give the Customer the opportunity to either purchase the Goods at the amended Prices or cancel the Order.

5 PAYMENT

5.1 The Supplier shall invoice the Customer for the Goods, partially or in full, at any time following acceptance of the Order.

5.2 The Customer shall pay all invoices:

5.2.1 in full without deduction or set-off, in cleared funds within 10 days from the date that the invoice was issued; and

5.2.2 to the bank account nominated by the Supplier.

5.3 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

5.3.1 the Supplier may, without limiting its other rights, charge interest on such sums at 8% a year above the base rate of the Bank of England from time to time in force; and

5.3.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

6 CREDIT LIMIT

6.1 The Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

7 DELIVERY

7.1 The Goods shall be delivered by the Supplier, or its nominated carrier, to the Location on the date specified in the Order.

7.2 The Goods shall be deemed delivered on arrival only of the Goods at the Location by the Supplier or its nominated carrier (as the case may be).

7.3 The Supplier may deliver the Goods in instalments. Any delay or defect in an instalment shall not entitle the Customer to cancel any other instalment.

7.4 The Customer shall not be entitled to reject a delivery of the Goods on the basis that an incorrect volume of the Goods has been supplied.

7.5 Time of delivery is not of the essence. The Supplier shall use its reasonable endeavours to meet delivery dates but such dates are indicative only.

7.6 The Supplier shall not be liable for any delay in or failure of delivery caused by:

7.6.1 the Customer's failure to provide all information and raw materials required by the Supplier for the Goods;

7.6.2 the Customer's failure to make the Location available;

7.6.3 the Customer's failure to prepare the Location as required for delivery of the Goods;

7.6.4 the Customer's failure to provide the Supplier with adequate instructions for delivery and installation or otherwise relating to the Goods;

7.6.5 Force Majeure.

7.7 If the Customer fails to accept delivery of the Goods the Supplier shall store and insure the Goods pending delivery, and the Customer shall pay all costs and expenses incurred by the Supplier in doing so.

7.8 If 30 Business Days following the due date for delivery or collection of the Goods, the Customer has not taken delivery of or collected them, the Supplier may resell or otherwise dispose of the Goods without any obligation or liability to the Customer, except as provided for in clauses 7.8.1 and 7.8.2. The Supplier shall:

7.8.1 deduct all storage charges at the Supplier's then-applicable rates and reasonable costs of resale; and

7.8.2 account to the Customer for any excess of the resale price over, or invoice the Customer for any shortfall of the resale price below, the Price paid by the Customer for the Goods.

8 RISK AND TITLE

8.1 Risk in the Goods shall pass to the Customer on delivery.

8.2 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Goods under the Contract.

8.3 Until title to the Goods has passed to the Customer, the Customer shall:

8.3.1 hold the Goods as bailee for the Supplier;

8.3.2 store the Goods separately from all other material in the Customer's possession;

8.3.3 take all reasonable care of the Goods and keep them in the condition in which they were delivered;

8.3.4 insure the Goods from the date of delivery: (i) with a reputable insurer (ii) against all risks (iii) for an amount at least equal to their Price (iv) noting the Supplier's interest on the policy;

8.3.5 ensure that the Goods are clearly identifiable as belonging to the Supplier;

8.3.6 not remove or alter any mark or packaging of the Goods;

8.3.7 inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clauses 14.1.1 to 14.1.4 or 14.2.1 to 14.2.11;

8.3.8 on reasonable notice permit the Supplier to inspect the Goods during the Customer's normal business hours and provide the Supplier with such information concerning the Goods as the Supplier may request from time to time.

8.4 Notwithstanding clause 8.3, the Customer may use or resell the Goods in the ordinary course of its business until such time as it becomes aware or ought reasonably to have become aware that an event specified in clauses 14.1.1 to 14.1.4 or 14.2.1 to 14.2.11 has occurred or is likely to occur.

8.5 If the Customer resells the Goods in accordance with clause 8.4, title to the Goods shall pass to the Customer immediately prior to the resale.

8.6 If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clauses 14.1.1 to 14.1.4 or 14.2.1 to 14.2.11, the Supplier may:

8.6.1 require the Customer to the Customer's expense to re-deliver the Goods to the Supplier; and

8.6.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

9 RETURNS

9.1 The Customer must notify the Supplier within two Business Days from the date of delivery of any Goods and Goods that have been dispatched by the Supplier in error or are otherwise unsuitable, giving the Supplier the full information of the issue and requesting a "Returns note" from the Supplier.

9.2 The Customer must notify the Supplier within two Business Days from the date of delivery of any errors in packaging or damage to Goods. Should the Supplier accept the return of such Goods, then the Customer must return such Goods or (if agreed) make available for collection by the Supplier, within 14 days from the date of delivery of the Goods, failure of the Customer to return or (if agreed) make available for collection the Goods within 14 days will result in the Goods being deemed to have been accepted and payment for the Goods being due.

9.3 The Customer will not be able to make a claim for any damaged Goods which have been accepted and signed for as being "complete" or "in good condition" at the time of Delivery at the Location.

9.4 No returns of any Goods will be accepted by the Supplier unless the Goods are accompanied during transit by a "return note" issued by the Supplier.

9.5 Any returns of correctly dispatched Goods of saleable quality will be accepted in the Supplier's sole discretion and if accepted, subject to a 20% restocking charge plus delivery costs.

9.6 The Supplier will not be liable for any minor deviations in quality, size, colour and finish found in the Goods, which from a technical point of view, are unavoidable or follow common commercial practice.

10 INDEMNITIES

10.1 The Customer shall indemnify the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract.

10.2 The Customer shall indemnify the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from any use of any materials supplied by the Customer which are in breach of third party intellectual property rights.

11 LIMITATION OF LIABILITY

11.1 The extent of the Supplier's liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 11.

11.2 Subject to clause 11.5, the Supplier's total liability shall not exceed a sum equivalent to the total Price of the Goods under the Contract which the liability arises.

11.3 Subject to clause 11.5, the Supplier shall not be liable for consequential, indirect or special losses.

11.4 Subject to clause 11.5, the Supplier shall not be liable for any of the following (whether direct or indirect):

11.4.1 loss of profit;

11.4.2 loss of data;

11.4.3 loss of use;

11.4.4 loss of production;

11.4.5 loss of contract;

11.4.6 loss of opportunity;

11.4.7 loss of savings, discount or rebate (whether actual or anticipated); or

11.4.8 harm to reputation or loss of goodwill.

11.5 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

11.5.1 death or personal injury caused by negligence;

11.5.2 fraud or fraudulent misrepresentation; or

11.5.3 any other losses which cannot be excluded or limited by Applicable Law.

11.6 All warranties and conditions (including the conditions implied by ss 13-15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

12 CONFIDENTIALITY

12.1 The Customer shall keep confidential all Confidential Information of the Supplier and of any Affiliate of the Supplier and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:

12.1.1 any information which was in the public domain at the date of the Contract;

12.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;

12.1.3 any information which is independently developed by the Customer without using information supplied by the Supplier or by an Affiliate of the Supplier; or

12.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.

12.2 This clause 12 shall remain in force in perpetuity from the date of the Contract.

13 FORCE MAJEURE

13.1 Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the Force Majeure event continues for a period of more than 30 days, either party may terminate the Contract by written notice to the other party.

14 TERMINATION

14.1 The Supplier may terminate the Contract or any other contract which it has with the Customer at any time by giving notice in writing to the Customer if:

14.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;

14.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 Business Days of receiving written notice of such breach;

14.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid 10 days after the date that the Supplier has given notification to the Customer that the payment is overdue; or

14.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.

14.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if:

14.2.1 steps carrying on all or a significant part of its business, or indicates in any way that it intends to do so;

14.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;

14.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;

14.2.4 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;

14.2.5 is a company in liquidation for its winding up;

14.2.6 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;

14.2.7 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;

14.2.8 has a freezing order made against it;

14.2.9 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;

14.2.10 is subject to any events or circumstances analogous to those in clauses 14.2.1 to 14.2.9 in any jurisdiction; or

14.2.11 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 14.2.10 to 14.2.12 including giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.

14.3 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause 14, it shall immediately notify the Supplier in writing.

14.4 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

15 NOTICES

15.1 Notices may be given, and are deemed received:

15.1.1 by hand, on receipt of a signature at the time of delivery;

15.1.2 by first class post at 9.00 am on the second Business Day after posting;

15.1.3 by email post at 9.00 am on the fourth Business Day after posting;

15.1.4 by email on receipt of a delivery email from the correct address;

15.1.5 This clause 15 does not apply to notices given in legal proceedings or arbitration.

15.3 A notice given under these Conditions is not validly served if sent by email.

16 CUMULATIVE REMEDIES

16.1 The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.

17 TIME

17.1 Unless stated otherwise, time is of the essence of any date or period specified in the Contract in relation to the Customer's obligations only.

18 FURTHER ASSURANCE

18.1 The Customer shall at the request of the Supplier, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

19 ENTIRE AGREEMENT

19.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

19.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

19.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

20 VARIATION

20.1 No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.

21 ASSIGNMENT

21.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent, which it may withhold or delay at its absolute discretion.

22 SET-OFF

22.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Supplier has with the Customer.

22.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

23 NO PARTNERSHIP OR AGENCY

23.1 The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

24 EQUITABLE RELIEF

24.1 The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

25 SEVERANCE

25.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

25.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid or enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

26 WAIVER

26.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

26.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract shall constitute a waiver of any future exercise of it or the exercise of any other right, power or remedy by the Supplier.

26.3 A waiver of any term, provision, condition or breach of the Contract by the Supplier shall only be effective if given in writing and signed by the Supplier, and then only in the instance and for the purpose for which it is given.

27 COMPLIANCE WITH LAW

27.1 The Customer shall comply with Applicable Law and shall maintain such licences, authorisations and other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

28 CONFLICTS WITHIN CONTRACT

28.1 If there is a conflict between the terms contained