



## Terms and Conditions of Sale

In these Conditions:

Conditions are these terms and conditions of trade, any special terms and conditions on the face of the Vendor's Tender or the Vendor's written acceptance of the Buyer's order and the terms and conditions of any supplier of the Vendor, copies of which shall be made available on request (as the case may be);

Contract is the contract for the purchase and sale of the Goods;

Buyer is the person who accepts a quotation of the Vendor for the sale of the Goods or services or whose order for the Goods or services are accepted by the Vendor;

Goods are the goods (including any installment of the goods or any parts for them) which the Vendor is to supply;

Services are the supply or of any services that the vendor is to supply.

Tender is a tender made by the Vendor's authorized representative and includes any quotation.

Vendor is Landor (UK) Ltd; 51 Clarence Road, Fleet, Hampshire, GU51 3RY, United Kingdom

### 1. BASIS OF THE SALE

1.1 All Goods are sold subject to the Vendor's prior approval of the Buyer's credit and to the Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any Tender is accepted or purported to be accepted, or any order is made or purported to be made, by the Buyer.

1.2 No variation to these Conditions shall be binding unless agreed in writing by a director of the Vendor.

1.3 The Vendor's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Vendor in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and irrevocably waives any claim it may have for damages for or right to rescind the Contract for any such representations which are not so confirmed (unless such representations were fraudulently made).

1.4 Any advice or recommendation given by the Vendor or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Vendor is followed or acted upon entirely at the Buyer's own risk and, accordingly, the Vendor shall not be liable for any such advice or recommendation which is not so confirmed.

1.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Vendor shall be subject to correction without any liability on the part of the Vendor.

### 2. CONTRACT

2.1 The Vendor's quotation shall be deemed to be an invitation to the Buyer to make an offer to purchase the Goods subject to the Conditions and such offer by the Buyer shall not constitute a valid Contract until accepted by the Vendor's authorised representative. The Vendor's quotation shall automatically lapse after 30 days of the date of the quotation.

2.2 No order submitted by the Buyer shall be deemed to be accepted by the Vendor unless and until confirmed in writing by the Vendor, or by shipment of order.

2.3 The Buyer is responsible for ensuring the accuracy of the terms of any order and for giving the Vendor any necessary information (which shall include the tasks which the goods shall be required to perform) within a sufficient time to enable the Vendor to perform the Contract.

2.4 The quantity and description of and any specification for the Goods shall be those set out in the Vendor's quotation (if accepted by the Buyer) or the Vendor's acceptance of the Buyer's order.

### 3. DELIVERY

3.1 Unless otherwise stated on the Vendor's written acceptance of order, deliveries will be subject to a surcharge. Delivery will be made at the address stipulated by the Buyer, the details of which the Buyer warrants. Assistance may be required with off loading.

3.2 Any dates given for the delivery of the Goods are approximate only and the Vendor shall not be liable for any loss, direct or indirect, which may arise from delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence.

3.3 The Goods may be delivered in installments. Each delivery shall constitute a separate contract and failure by the Vendor to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

3.4 If the Buyer fails to take delivery of the Goods or fails to give the Vendor adequate delivery instructions at the time stated for delivery then the Vendor may:

3.4.1 store the Goods until actual delivery and charge the Buyer for the costs (including insurance) of storage and redelivery; or

3.4.2 sell the Goods at the best price readily obtainable and (after deducting all storage, selling and other expenses) account to the Buyer for the excess over sums owing by the Buyer or charge the Buyer for any shortfall.

3.5 Any periods or times stated for delivery or for compliance with any other contractual obligation on the Vendor's part ("Estimated Times") are estimates only. The Vendor shall not be responsible for loss or damage resulting from delay or failure to notify the Buyer of any delay. Changed specifications or instructions may result in changes to Estimated Times.

### 4. PRICE

4.1 All prices are quoted subject to acceptance within any period specified and to any increase which may occur as a result of factors falling outside the control of the Vendor.

4.2 VAT and any other duties or taxes where applicable will be added to all invoices at the rate ruling at the date of dispatch.

4.3 The Buyer shall pay the Vendor's invoices without any deduction or set off. The time of payment shall be of the essence.

4.4 Tenders may be withdrawn at any time prior to acceptance of order.

## 5. CANCELLATION

No order which has been accepted by the Vendor may be cancelled by the Buyer except with the agreement in writing of the Vendor and on terms that the Buyer shall indemnify the Vendor in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Vendor as a result of cancellation.

## 6. WARRANTY AND RETURN OF GOODS

6.1 The Vendor undertakes for the duration of the Warranty Period following delivery, as stipulated in the Vendor's quotation, to repair or replace at the option of the Vendor, any goods which are shown to be defective in materials or workmanship. The repair or replacement shall include but not be limited to any adjustments, part replacements and maintenance of good working order.

6.2 Any Goods returned to the Vendor without prior consent will not be accepted by the Vendor and will be returned to the Buyer freight collect. The Vendor shall specifically not accept the Goods unless it includes the original packaging. All Goods returned must be returned carriage paid to one of the Vendor's approved service points (a list of which is available from the Vendor on request) failing which the Vendor shall be under no obligation to repair or to replace the defective Goods.

6.3 The Vendor shall furthermore be under no obligation to repair or to replace defective Goods if (a) the Buyer has failed to adhere strictly to the terms of payment provided for or referred to herein for the Goods or in relation to any other contracts between the Vendor and the Buyer or (b) the Buyer has executed or attempted to execute repairs or alterations to the Goods which are not authorised by the Vendor or has failed in any other respect to adhere strictly to the terms hereof or (c) the Goods are damaged by accident, misuse, negligence, willful act of default or incorrect use of the Goods (in which case the Buyer agrees to pay the Vendors then prevailing rate charged for replacement or repair of the Goods) (f) fair wear and tear.

6.4 Notwithstanding the foregoing provisions of this clause, the Vendor shall have the option at all times in lieu of effecting repairs, to provide the Buyer with replacement goods within a reasonable time.

## 7. PAYMENT AND INTEREST

7.1 Payment shall either be made in full prior to dispatch of the Goods unless the Buyer has a credit account with the Company. If the Buyer has a credit account with the Company, payment shall be made on the date on which the Vendor issues its invoice (the "Invoice Date"). In the event that the invoice is not paid by the Buyer within 30 days from the Invoice Date then the Vendor shall be entitled to charge interest on late payments from the Invoice Date at a rate equivalent to the rate prevailing at the Invoice Date as prescribed by the Secretary of State pursuant to section 6 of The Late Payment of Commercial Debts (Interest) Act 1998.

7.2 If the Buyer has a credit account with the Seller, the credit limit as determined from time to time by the Seller shall not be exceeded without the written consent of the Seller's authorised representative.

7.3 The Vendor reserves the right to charge a 2% handling charge for all credit card purchases.

## 8. RETENTION OF TITLE AND RISK

8.1 The risk in the goods shall pass to the Buyer on delivery. At that moment, the Buyer shall become responsible for the care and protection of the goods and shall take out at its own expense adequate and comprehensive all risks cover on the goods (with a note of the Vendor's interest endorsed therein until the Vendor has received payment of the price in full).

8.2 Notwithstanding delivery and the passing of risk in the goods, title in the goods (including full legal and beneficial ownership) shall not pass to the Buyer until the Vendor has received (in cash or cleared funds) payment in full for all Goods supplied by the Vendor to the Buyer under all contracts between them. Payment of the full price for the Goods shall include the amount of any interest or other sums payable under contracts between the Vendor and the Buyer.

8.3 Until such time as the property in the goods passes to the Buyer, the Buyer shall hold the goods as the Vendor's fiduciary agent and bailee, and shall keep the goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Vendor's property. Until that time the Buyer shall be entitled to resell or use the goods in the ordinary course of its business, but shall account to the Vendor for the proceeds of the sale or otherwise of the goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

8.4 Until such time as the property in the goods passes to the Buyer (and provided the goods are still in existence and have not been resold) the Vendor shall be entitled at any time to require the Buyer to deliver up the Goods to the Vendor and, if the Buyer fails to do so forthwith, to enter upon any premises or vehicles of the Buyer or any third party where the goods are stored and repossess the goods.

8.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for indebtedness any of the goods which remain the property of the Vendor.

## 9. TERMINATION

9.1 The Vendor shall have the right immediately to terminate, or suspend any further deliveries under, the Contract or any other contract with the Buyer without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary if:

9.1.1 the Buyer fails to make any payment when due or breaches any provision of the Contract;

9.1.2 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or the Buyer ceases, or threatens to cease, to carry on business; or the Vendor reasonably apprehends that any of these events is about to occur in relation to the Buyer.

9.2 The right of termination given by Clause 9.1 shall be without prejudice to any other right or remedy of either party in respect of any breach committed under the terms of this Agreement.



#### **10. DEFAULT**

The Buyer shall fully and effectively indemnify the Vendor against the total expense to the Vendor arising out of the Buyer's breach or breaches of these conditions of sale. Such expense shall include (without limitation)

(1) all expenses incurred by the Vendor in sourcing and building the goods (2) all court fees (3) all amounts payable to the Vendor's professional advisers (payable on an indemnity basis) in pursuing claims against the Buyer for breach or breaches of these conditions of sale and for enforcing any judgement/s and/or order/s (4) all amounts payable to the Vendor's insurers and/or debt recovery agents, in each case including anticipated sums payable by the Vendor only after payment of any sums from the Buyer.

#### **11. CLAIMS**

11.1 The Vendor shall not be liable for any increased costs, expenses, economic loss, loss of profits, goodwill, business, contracts, revenues or anticipated savings or any type of special indirect or consequential loss (including loss or damage suffered by the Buyer as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Vendor had been advised of the possibility of the Buyer incurring the same. In any event, the Vendor's entire liability under any contract shall be limited to damages of an amount equal to the price of the goods. The Vendor does not attempt to limit liability for personal injury or death caused by its negligence or the negligence of its employees or agents.

11.2 Subject to the provisions of the Unfair Contract Terms Act 1977, all warranties, conditions, representations or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

11.3 To the extent the law does not permit the liabilities concerned to be excluded and save as otherwise expressly provided, the Vendor's entire aggregate liability for all claims shall be limited to damages of an amount equal to the price of the Goods.

#### **12. FORCE MAJEURE**

The Vendor shall (1) in any event not be liable for loss or damage and (2) be entitled to cancel or rescind the contract if the performance of its obligations under the contract is in any way adversely affected by any cause whatsoever beyond the Vendor's control including (but not limited to) the delays or default of any subcontractor, war, strike, lock-out, trade disputes, flood, accident to plant or machinery, shortage of materials or labour."

#### **13. GENERAL**

13.1 The Vendor may assign its rights and obligations. The Buyer may not assign its rights and obligations.

13.2 No delay or failure by the Vendor in enforcing any provision of the Contract shall constitute a waiver of that provision or any other provision. No waiver by the Vendor of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision. No waiver by the Vendor shall be effective unless in writing.

13.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

13.4 These Conditions and the Vendor's acceptance of order constitute the entire agreement between the Vendor and the Buyer concerning the supply of the Goods and replace and supersede any prior arrangement, understanding, warranty or representation (other than any fraudulent misrepresentation).

13.5 The Contract shall be governed by the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts.