

## Terms and Conditions

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## Terms and Conditions of Trade

### 1 GENERAL

1.1 In these conditions the following expressions shall have the following meanings:

'Buyer'	the individual firm company or other party from whom an order to supply is received by CBIT.
'Conditions'	the standard terms and conditions of sale of CBIT as set out herein and includes any additional terms and conditions of sale agreed by CBIT.
'Contract'	a contract for the supply of Goods by CBIT to the Buyer.
'Date of Delivery'	the date on which the delivery of the Goods take place pursuant to Condition 6.
'Goods'	the goods which CBIT is to supply under the Contract.
'CBIT' 1985	CBIT and any subsidiary or holding company or associate (as defined in the Companies Act 1985 (as amended) of the said company.

1.1.1 Words importing the singular number shall include the plural and vice versa, words importing one gender shall include all genders, and words importing persons shall include bodies, corporate, unincorporated associations and partnerships.

1.2 If satisfactory references on the Buyer are not provided within seven days of a request therefore by CBIT, CBIT may terminate the Contract without liability.

1.3 CBIT reserves the right to assign or sub-contact the Contract or any part thereof. The Buyer shall not be entitled to assign the benefit of the Contract without the consent in writing of CBIT.

1.4 If at any time any one or more of the provisions or part thereof of these Conditions becomes or is held by a court to be invalid, illegal or unenforceable in any respect under any law, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

1.5 No waiver by CBIT of any breach of any provisions of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision and CBIT shall not be prejudiced by any forbearance or indulgence granted by it to the Buyer.

### 2. ORDERS, ACKNOWLEDGEMENTS AND VARIATIONS

2.1 Notwithstanding that CBIT may have given a detailed quotation or estimate either verbally or in writing no order shall be binded on CBIT unless and until it has been acknowledged in writing by CBIT or the Goods are delivered by CBIT to the Buyer pursuant to the order.

2.2 These Conditions are incorporated in the Contract and contain the entire obligations between CBIT and the Buyer. In the case of any inconsistency between any letter or quotation incorporating or referring to these Conditions and any order, letter or form or contact sent by the Buyer to CBIT, whatever may be their respective dates, the provisions of these Conditions shall prevail. In the event of CBIT entering into the Contract without CBIT having submitted a written quotation or other letter or document incorporating or referring to these Conditions but in circumstances where the Buyer has had prior notice of these Conditions then all Goods supplied shall be subject to these Conditions.

2.3 No variation of the Contract of the Buyer shall be binding upon CBIT unless made in writing and signed on behalf of CBIT.

2.4 Any representations (except fraudulent misrepresentations) or warranties made by or on behalf of CBIT prior to the Contract (whether verbally or in writing, including without limitation, any catalogue published by CBIT or by any other person) are hereby expressly excluded and shall be of no effect.

### 3. DESCRIPTION

3.1 To enable CBIT to pursue its policy of continuous improvement of its products CBIT reserves the right to amend the specification of the Goods from time to time whether before or after the making of the Contract.

### 4. DESIGNS AND INTELLECTUAL PROPERTY

4.1 Unless otherwise agreed in writing, CBIT will be the sole owner of the copyright in all documents and drawings made or produced by it in preparing a quotation for the Buyer or in the course of work on any Contract with the Buyer.

### 5. PRICE

5.1 CBIT shall be entitled to adjust the Contract price of the Goods whether before or after the making of the Contract in the event of any variation in the cost to CBIT of supplying the same or any part thereof caused by any reason whatsoever beyond the control of CBIT and CBIT' written certificate of such variation shall be conclusive evidence of such variation and the extent thereof.

5.2 Unless otherwise agreed in writing, CBIT' quotation does not include VAT nor the cost of packaging, loading, carriage, insurance, off-loading or installation which should be arranged by the Buyer at its sole risk and expense.

### 6. DELIVERY

6.1 Delivery of Goods shall be deemed to be effected by CBIT at the following times:

6.1.1 Where Goods are delivered by CBIT, when the same arrive prior to unloading at the Buyer's premises or at the premises nominated by the Buyer or at the nearest accessible road point to such premises.

6.1.2 Where Goods are delivered by an independent carrier, at the time of loading onto the carrier's vehicle.

6.1.3 Where Goods are to be collected by or on behalf of the Buyer by its servants or agents, when the same are collected or when CBIT notifies the Buyer that the same are ready for collection.

6.2 Whilst CBIT will make every reasonable effort to complete the Contract by the date(s) therein specified for delivery of Goods such date(s) shall only constitute the times by which CBIT expects to effect such delivery but the time for performance of the Contract by CBIT shall not be of the essence of the Contract, CBIT' failure to so deliver by the due date(s) shall not constitute a breach of Contract and CBIT shall not in any circumstances be responsible for any direct or consequential loss or damage of any kind whatsoever resulting there from. CBIT may wholly or partly suspend

deliveries of Goods unless the Buyer shall accept late delivery of such Goods unless the Buyer has cancelled the Contract in accordance with the provisions of Condition 9.2.

## 7. QUANTITIES INSTALMENTS AND STORAGE

7.1 Where Goods are delivered by instalments each instalment shall be deemed to be sold under a separate Contract and no default in respect of any one instalment shall affect due performance of the Contract as regards other instalments.

7.2 CBIT will endeavour to delivery the quantity of Goods ordered. If there is a surplus or shortage of Goods which is so slight that it would be unreasonable for the Buyer to reject delivery of them the Buyer shall be deemed to have accepted the Goods and shall pay for the actual quantity delivery.

7.3 The Buyer shall indemnify and keep indemnified CBIT in full against all costs, losses, damages and expenses whatsoever arising in connection with the storage of the Goods if CBIT shall be prevented from delivering any of the Goods in accordance with the Contract as a result of delay or default on the part of the Buyer or any reason beyond CBIT' reasonable contract and such costs, losses , damages and expenses will be added to and form and the part of the price of the Goods. CBIT shall be entitled in its absolute discretion and without giving prior notice to the Buyer at the expiration of 3 months to sell or otherwise dispose of Goods kept in storage.

## 8. TERMS OF PAYMENT

8.1 Unless otherwise agreed the price shall be due and payable at CBIT' offices in sterling 14 days after the date of CBIT' invoice provided that CBIT reserves the right to require payment prior to delivery of the Goods or on sending notification that the Goods are in a deliverable state or if the Buyer has previously failed to make any payment owing to CBIT on the due date.

8.2 If the Buyer does not pay the whole or any part of the price on the required day then the Buyer shall pay to CBIT interest on the amount outstanding from the required day until the actual date of payment at the rate of 2%p.a. over the base rate of Lloyds TSB from time to time in force which shall accrue on a daily basis.

8.3 So long as any payment due from the Buyer to CBIT is outstanding, whether under the same or any other Contract or transactions, CBIT shall have a general lien on any Goods and any other property of the Buyer in its possession for whatever purpose and whether worked upon or not. CBIT shall be entitled on the expiration of not less than 14 days notice in writing to the Buyer to dispose of such property and to apply the proceeds towards satisfaction of such debts.

8.4 The Buyer shall not entitled to withhold payment of any amount due to CBIT by reason of any disputed claim by the Buyer in connection with the Contract nor shall the Buyer be entitled to set off against any amount payable under the Contracts to CBIT any amount which is not then due and payable by CBIT or for which CBIT disputes liability.

## 9. SUSPENSION AND CANCELLATION

9.1 If the Buyer shall commit any breach of the Contract and fail to remedy the same within 7 days of receiving CBIT' request in writing so to do or any distress or execution is levied upon any goods or property of the Buyer or 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 an incorporated company) passes a resolution for winding up (otherwise than for the purpose of amalgamation or reconstruction), or a Court makes and order to that effect, or an encumbrancer takes possession, or an administrative receiver or 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 is unable to pay its debts within the meaning of section 123 Insolvency Act 1986, or CBIT reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly, CBIT may: (a) stop any Goods in transit and suspend further deliveries and/or (b) suspend work on the Contract and/or (c) hold by way of a general lien all materials or other property of the Buyer in the possession of CBIT and/or (d) determine the Contract forthwith; and if the Goods, or any part of them have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

9.2 In the event of CBIT other than in any of the circumstances set out in Condition 9.1 being prevented or hindered from completing the Contract either wholly or in part in accordance with the terms thereof for any reason beyond its reasonable control then further performance of the Contract shall be suspended for the period during which CBIT is so prevented provided that in the event of the Contract being suspended for a continuous period of more than 3 months than either party may give the other notice in to terminate the Contract forthwith and in such circumstances the Buyer shall pay for all Goods supplied to the date of such termination such payment to be made on or before the last day of the month following the month during which termination was effected. CBIT shall be under no liability whatsoever to the Buyer for any direct, indirect or consequential loss or damage suffered by the Buyer as a result of CBIT' inability to perform its obligations under the Contract in these circumstances.

9.3 The termination of the Contract for whatever reason will be without prejudice to the rights and duties of either party accrued prior to termination.

## 10. CLAIMS FOR DAMAGE IN TRANSIT/DEFECTS

10.1 The Buyer shall inspect the Goods within 7 days of Delivery and whether or not the Buyer carries out such obligation to inspect no claims for non-delivery, shortages in quantity of units delivered, defective Goods, partial loss or damage to Goods will be accepted by CBIT unless:

a) they are notified in writing by the Buyer to CBIT within 7 days after the Date of Delivery (in the case of partial loss, damage or defective Goods) or 14 days after the date of the invoice (in the case of non-delivery) and (b) the Goods in respect of which a claim is made together with the packaging are preserved intact as received and at the Buyer's risk for a period of 21 days from notification of any such claim and (c) the Buyer permits CBIT or its servants or agents full and free right of access to inspect the Goods and investigate the claim.

10.2 If the Buyer fails to give the appropriate notice as specified in Condition 10.1 the Buyer's claim will be deemed to have been waived and will be absolutely barred.

10.3 Section 3 Sale and Supply of Goods Act 1994 shall not apply.

## 11. WARRANTY

11.1 Where Goods are supplied by CBIT but manufactured by a third party, CBIT shall use its best endeavours to pass on to the Buyer any benefits relating to warranties in respect of or guarantees of such Goods which CBIT has under contract with that third party. CBIT shall have no liability in respect of defects in the Goods which result from the manufacture, design, materials or workmanship of that third party and except as aforesaid, any warranties, conditions or undertakings (whether express or implied by statute, common law or otherwise) howsoever in respect of such Goods are, subject to section 6(1) Unfair Contract Terms Act 1977, hereby expressly excluded.

11.2 In substitution for all any other rights which the Buyer might or would have against CBIT but for these Conditions, and subject to Conditions 10.1 and 11.1, CBIT shall make good by replacement or, at its option, repair any failure (fair wear and tear excepted) in the Goods which, under conditions of proper use and maintenance, results from defects in CBIT' manufacture, design, materials or workmanship and which appears not later than 12 months after the Date of Delivery.

11.3 Notwithstanding the provisions of Condition 11.2, the case of claim falling within Conditions 11.2, CBIT reserves the right at its sole discretion to credit the Buyer in full the price paid by the Buyer to CBIT.

11.4 CBIT' liability under this Condition shall automatically cease if: (a) the Buyer is in breach of this or any other contract made with CBIT; or (b) CBIT or its servants or agents are denied full and free right of access to the allegedly defective Goods; or (c) the Goods have been treated improperly or in a way which has contributed to the defect (whether before or after a defect is detected).

11.5 The warranty set out in Condition 11.2 shall be in lieu of any warranties conditions or undertakings whether express or implied by statute, common law or otherwise howsoever which warranties, conditions and undertakings are hereby expressly excluded, except that such exclusions will not apply to any implied condition that CBIT has or will have the right to sell the Goods when the property is to pass.

11.6 Nothing in these Conditions excludes or limits the liability of CBIT for death or personal injury caused by CBIT' negligence or fraudulent misrepresentation.

11.7 Save as provided in Condition 11.6, CBIT shall not be liable to the Buyer for any direct, indirect, or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses, or other claims for consequential compensation whatsoever (however caused) which arise out of or in connection with the contract.

11.8 In the event that notwithstanding the other provisions of these CBIT is found liable for any loss or damage suffered by

11.9 The Buyer, CBIT' total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the contract price.

11.10 Where the Goods are sold under a consumer sale (as defined by the Sale of Goods Act 1979) the statutory rights of the Buyer are not affect by these conditions.

## 12. RESERVATION OF TITLE TO GOODS

12.1 Until payment in full of all monies due and owing by the Buyer to CBIT on any account whatsoever has been received full legal and beneficial ownership of the Goods shall be retained by CBIT notwithstanding that the risk in the same shall pass to the Buyer at the time of delivery.

12.2 Until ownership of the Goods has passed to the Buyer the Buyer shall hold the Goods in a fiduciary capacity and as bailey of the Seller and shall at all times take proper care of the same and will not obliterate or obscure any identifying mark on the Goods or their packaging and will keep the Goods separate from any other goods and in such manner that they may be clearly identified as premises at any time during the continuation of the Contract to check that the Buyer is complying with the obligation contained in this Condition or where the Buyer's right to possession has request whether verbally or in writing so to do prior to payment in full as aforesaid having been made and the Seller will then repay any part of the purchase price it has already received in respect of the Goods less a reasonable amount in respect of its costs and expenses in connection with the Contract.

12.3 The Buyer's right to possession of the Goods shall terminate immediately if:-

12.3.1 a receiver or administrative receiver is appointed over the whole or any part of the assets or the undertaking of the Buyer or a winding up order is made against the Buyer or the Buyer goes into voluntary liquidation (except solely for the purpose of reconstruction or amalgamation) or calls a meeting or makes any arrangement with its creditors or becomes subject to an administration order or becomes bankrupt; or

12.3.2 the Buyer pledges or in any way charges by way of security for indebtedness the whole or any part of the Goods; or

12.3.3 the Contract terminates.

## 13 RISK AND INSURANCE

13.1 The risk in the Goods shall pass to the Buyer at the time of delivery as provided for in Condition 6. Notwithstanding the reservation of title contained in Condition 12, the Buyer shall insure the Goods, and/or any products made wholly or partly there from for the full amount of the price payable under the Contract from the time of delivery of the Goods until the date title in the Goods passes to the Buyer pursuant to Condition 12.

## 14. NOTICES

14.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

14.2 Any notice given pursuant to Condition 14.1 shall be deemed to have been served if delivered by hand, on the first Business Day following delivery; if sent by post, on the third Business Day after posting if the address of the recipient is in the country of despatch, otherwise on the seventh Business Day after posting; if sent by facsimile transmission, on the first Business Day following successful transmission.