



Terms & Conditions of Sale

1. INTERPRETATION

1.1 In these conditions:

- 1.1 "The seller" means MJ Solpac Ltd, whose principal place of business is at ACE House, Stafford Park 6, Telford, Shropshire, TF3 3AT.
- 1.2 "The buyer" means the person whose details are set out overleaf.
- 1.3 "The goods" means the goods listed overleaf.
- 1.4 "These conditions" means the terms and conditions of sale set out in this document.
- 1.5 "The estimated delivery date" means the estimated date on which the goods are to be delivered or released as set out overleaf.

2. BASIS OF SALE

- 2.1 These conditions apply to all contracts for the sale of goods entered into by the seller. By placing an order with the seller or accepting the seller's quotation, the buyer agrees to deal with the seller on these conditions to the exclusion of all other terms, conditions, warranties or representations with the exception of any terms specified in writing overleaf.
- 2.2 No variations to these conditions shall be binding unless agreed in writing and signed by a director of each of the buyer and the seller.
- 2.3 The seller's employees or agents are not authorised to make any representations concerning the goods unless confirmed by the seller in writing. In entering into this agreement, the buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.4 Any advice or recommendation given by the seller and its employees or agents to the buyer or its employees or agents to the storage of the goods which is not confirmed in writing by the seller is followed or acted upon entirely at the buyers own risk and accordingly the seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer or other document or information issued by the seller shall be subject to correction without any liability on the part of the seller.

3. SALE AND PURCHASE

- 3.1 The buyer agrees to purchase the goods from the seller and the seller agrees to sell the goods to the buyer.
- 3.2 The buyer shall not be entitled to cancel its order or in part any order which the seller has accepted or in any quotation of the seller which the buyer has accepted in either case whether orally or in writing.

4. DELIVERY

- 4.1 The seller shall use its reasonable efforts to deliver or to release the goods to the buyer on or around the estimated delivery date, but time of the delivery shall not be of the essence.
- 4.2 The seller shall be entitled to deliver or release the goods in instalments.
- 4.3 Delivery or release of the goods shall have been properly made if the goods are handed over to a person appearing to represent the buyer.
- 4.4 If specified overleaf that the goods are to be delivered or released in instalments or in accordance with the buyer's call offs, then each such instalment or call off shall be treated as an entirely separate contract and any default or breach by the seller in respect of any such instalment or call off shall not entitle the buyer to cancel any other call off or instalment. If the buyer has not completed calls off within one month of the date of this agreement or such longer period specified overleaf the seller shall be entitled to terminate this agreement and to recover from the buyer any loss which it may suffer including in particular but without limitation loss of profits, storage charges and interest at 4% over the base rate from time to time of Royal Bank Of Scotland Bank Plc from the date of calls off should have been completed until the date on which the seller receives all such amounts.
- 4.5 If the goods are damaged or defective on delivery or release or less than the correct amount of the goods are delivered or released then the buyer shall be treated as if the seller has delivered or released the correct amount of the goods (whether in relation to such invoice or otherwise) within three days of delivery no claim against the seller can be made in respect of those goods.
- 4.6 If the goods have not been delivered or released despite receipt by the buyer of the invoice from the seller relating to them, then unless the buyer notifies the seller within seven days after the date of invoice no claim against the seller can be made in respect of the goods.
- 4.7 The buyer shall be deemed to accept the goods on delivery or release notwithstanding any late delivery or release by the seller.
- 4.8 If the buyer fails to take delivery of the goods or fails to give the seller adequate delivery instructions before the estimated delivery date, then, without prejudice to any other right or remedy available to the seller, the seller may:
 - 4.8.1 Store the goods until actual delivery or release is made and charge the buyer for costs (including insurance) of storage, and/or
 - 4.8.2 Sell the goods at the best price readily available and (after deducting all storage and selling expenses) charge the buyer for any shortfall below the price under this agreement and in either case shall be entitled to charge interest at 4% over the base rate from time to time of Royal Bank Of Scotland Plc from the estimated delivery date to the date of actual release or delivery

5. PRICES AND PAYMENT

- 5.1 The seller shall issue an invoice in respect of each delivery or release of the goods.
- 5.2 In addition to that price the buyer shall pay all applicable taxes including value added tax and any increase in prices due to circumstances outside the seller's control including without limitation charges in payment regulations, tariff levels, surcharges or exchange rates. If the cost of the goods to the seller increases for any such reason, then the price to be paid by the buyer shall be increased by the same percentage as the cost to the seller increases.
- 5.3 The buyer shall make payment to the seller in respect of all invoices in full and without any deduction or set off (whether in relation to such invoice or otherwise) within 30 days of the date of the invoice, or if another period is set out overleaf, within that period.
- 5.4 The price of the goods shall not be treated as paid until cash or cleared funds have been received by the seller.
- 5.5 All payments shall be applied to invoices and to goods listed on such invoices in the order determined in its full discretion by the seller.
- 5.6 If full payment is not received by the seller by the due date then without prejudice to its rights the seller shall be entitled:
 - 5.6.1 To sue for entire price; and/or
 - 5.6.2 To charge interest at the rate of 4% over the base rate from time to time of Royal Bank of Scotland Plc on the outstanding balance, and/or
 - 5.6.3 To require the immediate return to the seller of all goods (or their documents of title) agreed to be sold by the seller to the buyer in which the property has not passed on to the buyer and the buyer hereby authorises the seller to recover the goods or documents and to enter any of the buyer's premises for that purpose and to reimburse to the seller upon demand the seller's costs or expenses in recovering the goods or documents. The seller shall be entitled to dispose of such goods and to recover the difference between the price achieved and the price set out overleaf from the buyer.

6. WARRANTY

- 6.1 The buyer recognises that the goods are made in large quantities and generally from natural fibres and that variations in quality and appearance are inevitable. The seller shall not be responsible for such variations.
- 6.2 The buyer shall ensure that the goods are suitable for any process to which it intends to subject them.
- 6.3 If the buyer had reasonable opportunity to examine the goods prior to entering into this agreement then the buyer shall be deemed to have relied on such examination and no warranty as to the merchantability or fitness for purpose of the goods shall be given by the seller.
- 6.4 If it is stated overleaf that the goods are supplied for a particular purpose or in accordance with a sample then the seller warrants that the goods will be reasonably suitable for that purpose or will be substantially similar in quality to such sample but no other warranty as to merchantability or fitness for purpose of the goods shall be given by the seller.
- 6.5 Unless clauses 6.2 or 6.3 above apply, the seller warrants that the goods will be of a quality substantially similar to that generally prevailing in the market for that sort of product taking into consideration the price for the paid for the goods.
- 6.6 In the event of any valid claim under clauses 6.3 or 6.4 above being made by the buyer the seller shall at its option either replace the defective goods or accept their return and credit to a buyer's a proportionate part of any amount paid in respect of such goods.
- 6.7 Variations in weight, length, measurements, sizes and construction of up to five per cent are deemed to be acceptable and the buyer shall have no claim in respect of such variations nor shall it be entitled to reject any goods by reason of such variations.
- 6.8 No warranty is given as to the origin of the goods and the seller reserves the right to supply goods from any source.
- 6.9 In no event shall the buyer be entitled to make any claim in respect of the goods:
 - 6.9.1 After the goods have been processed, cut, changed, damaged, treated, joined, resold or otherwise dealt with by the buyer, or in any event more than 14 days after delivery unless inspection at that time is not possible in which case claims may be made within 14 days of eventual inspection provided such inspections take place within 60 days of delivery or in any event.
 - 6.9.2 Until the buyer has paid the price for the goods to the seller in accordance with clause 5 above.

7. LIABILITY

- 7.1 Except as provided for in clause 6, the seller shall have no liability to the buyer in respect of the goods and in particular all implied warranties as to merchantability or fitness for purposes are excluded.
- 7.2 The seller shall be liable for any death or personal injury arising from use or supply of the goods to the extent that it results from the proven negligence of the seller or its employees.
- 7.3 The seller shall be liable to the buyer for any direct physical damage other than death or personal injury to the extent that it results from the negligence of the seller or its employees up to a maximum of £1 million.
- 7.4 Except pursuant to sub clauses 7.2 and 7.3 above in no event shall the seller's liability in respect of any of the goods exceed the price paid for those goods.
- 7.5 In no event will the seller be liable for any indirect, special or consequential damages including but not limited to loss of anticipated profits.
- 7.6 Except pursuant to clause 7.2 above, no action, regardless of form, arising out of the transactions under this agreement shall be brought by the buyer more than one year after the cause of action has accrued.

8. RISK AND TITLE

- 8.1 Risk of damage to or loss of the goods shall pass to the buyer on delivery.
- 8.2 Notwithstanding delivery and the passing of risk in the goods, or any other provisions of these conditions, the property in the goods shall not pass the buyer and shall be retained by the seller until the seller has received in cash or cleared funds payment in full of the price of goods and of all sums due in connection with the supply of all goods and services to the buyer by the seller at any time.
- 8.3 If any of the goods owned by the seller is incorporated into other goods and is not identifiable in and separate from the resulting composite or mixed goods, title to the resulting composite or mixed goods shall vest in the seller and shall be retained by the seller so long as and on the same terms as those on which it would have retained title to the goods in question.
- 8.4 The buyer shall hold all goods owned by the seller as the seller's fiduciary agent and bailee, shall store them in such a way that they are all clearly identifiable as the seller's property, shall maintain records of such goods identifying them as the seller's property and shall keep them properly stored, protected and insured. The buyer shall be entitled to resell or use such goods in the ordinary course of business but shall account to the seller in respect of

the proceeds of sale or otherwise of such goods, whether tangible or intangible, including insurance proceeds and shall keep all such proceeds separate from any other monies or property of the buyer and third parties, and in the case of tangible proceeds, properly identified, stored, protected and insured. The buyer shall maintain records of the persons to whom it sells or disposes of such goods and of the payments made by such persons for such goods and will allow the seller to inspect these records and the goods themselves on request. The seller shall be entitled to trace the proceeds of sale or otherwise of such goods.

8.5 For the avoidance of doubt, all goods and goods into which goods have been incorporated in the buyer's possession shall be presumed to belong to the seller unless the buyer can prove otherwise.

8.6 Until such time as the property in any goods owned by the seller passes to the buyer, the seller shall be entitled at any time to require the buyer to deliver up such goods to the seller, and, if the buyer fails to do so forthwith, to enter upon any premises of the buyers or any third party where such goods are stored and to repossess them. The buyer shall procure that any third party which holds such goods shall permit the seller to take possession of them. The seller shall be entitled to use or dispose of such goods as it wishes, provided that, in the case of composite or mixed goods, title to which vests in the seller as a result of the incorporation of any item of the goods, the seller shall account to the buyer (subject to any set off to which the seller is entitled) for any excess of the amount received in respect of such goods over the amount due to the seller up to the amount of the direct costs or expenses incurred by the buyer in connection with the production of such goods but shall itself retain the balance. Unless the seller expressly elects otherwise any contract between it and the buyer for the supply of the goods shall remain in existence notwithstanding any exercise by the seller or any of its rights under this clause.

8.7 The buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of the seller but if the buyer does so all monies owing by the buyer to the seller shall (without prejudice to any other right or remedy of the seller) forthwith become due and payable.

9. THIRD PARTY RIGHTS

9.1 The seller shall at its expense defend any action against the buyer and pay all damages and costs awarded against the buyer (except to the extent that the buyer is entitled to recover sums of under any policy of insurance) based on a claim that any of the goods constitute an infringement of any patent or copyright or other intellectual property rights of the United Kingdom or misuse any confidential information belonging to any third party ("a claim") PROVIDED THAT:

- 9.1.1 The seller shall be notified promptly in writing by the buyer of any notice of a claim;
 - 9.1.2 The seller shall have the sole control of the defence of any action on a claim and all negotiations for settlement or compromise;
 - 9.1.3 The buyer shall allow its name to be used in proceedings if necessary and provide all reasonable assistance in defending action; and
 - 9.1.4 The buyer shall take all steps reasonably possible to mitigate or reduce any damages and costs which may be awarded against it as a result of a claim
- 9.2 If a claim is successful or the seller considers that it is likely to be successful, the seller may, at its option or as part of a settlement or compromise, procure for the buyer the right to continue using the goods, modify the goods so that they are non-infringing or terminate this agreement in so far as it applies to those goods subject to the claim in which latter case the seller shall refund to the buyer the price paid for such goods.

9.3 This clause states the entire obligation and liability of the seller with respect to infringement of intellectual property rights or misuse of confidential information.

10. TERMINATION

- 10.1 The seller shall be entitled to terminate this agreement forthwith by notice in writing to the buyer:
 - 10.1.1 If the buyer commits an irremediable breach of this agreement, persistently repeats a remediable breach or commits any remediable breach and fails to remedy it within 30 days of receipt a notice of the breach requiring remedy of the same, or
 - 10.1.2 If 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 (otherwise than for the purposes of solvent amalgamation or reconstruction) or the buyer ceases, or threatens to cease, to carry on business or an encumbrancer takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the buyer or if the seller reasonably apprehends that any of such events is about to occur in relation to the buyer and notifies the buyer accordingly; or
 - 10.1.3 If there is a material change in the creditworthiness of the buyer.
- 10.2 In the event of termination by the seller pursuant to clause 10.1 above, then, without prejudice to any other right or remedy available to the seller, the seller shall be entitled to cancel this agreement or suspend any further deliveries under this agreement without any liability to the buyer, and, if the goods have already been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary. The seller shall be entitled to require the immediate return of all goods (or their documents of title) agreed to be sold by the buyer in which the property has not passed to the buyer and the buyer hereby authorises the seller to recover the goods or documents and to enter any of the buyer's premises for that purpose and to reimburse to the seller upon demand the seller's costs or expenses in recovering the goods (or documents) and to charge interest at the rate of 4% over the base rate from time to time of Royal Bank Of Scotland Plc from the time of such cancellation or suspension until the seller receives payment.

11. REMEDIES

- The remedies available to the seller under this agreement shall be without prejudice to any other rights, either at common law or under statute, which it may have against the buyer.
12. WAIVER
The failure of the seller to enforce or to exercise, at any time or for any period of time, any term or any right arising pursuant to this agreement does not constitute and shall not be construed as a waiver of such term or right and shall in no way affect the seller's right later to enforce or exercise it.
13. SEVERABILITY
The invalidity or unenforceability of any term of, or any right arising pursuant to, this agreement shall not in any way affect the remaining terms or rights.

14. ASSIGNMENT

This agreement is personal to the buyer and the buyer may not assign, transfer, sub-contract or otherwise part with this agreement or any right or obligation under it without the seller's prior written consent.

15. NOTICES

All notices shall be delivered by the parties to each other at the addresses set out overleaf and shall be deemed to be received on actual delivery.

16. FORCE MAJEURE

The seller shall have no liability to the buyer if its performance of its obligations under this agreement is prevented or hindered due to any circumstances outside its control including without limitation charges in quotas and the failure of any supplier of the goods to supply them to the seller either at all or on the terms previously agreed between them.

17. HEADINGS

Clause headings are purely for ease of reference and do not form part of or affect the interpretation of this agreement.

18. LAW AND JURISDICTION

The construction, validity and performance of this agreement is governed by the laws of England and the parties accept the jurisdiction of the English courts.