

## 1. Interpretation

1.1. In these Conditions:

**"Buyer"** means the person or organisation who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.

**"Goods"** means the goods (including any instalment of the goods or any parts for them) and supply of any services or consultancy which the Seller is to supply in accordance with these Conditions.

**"Seller"** means Cleanroom Net Limited a company incorporated in Ireland under Companies Registration Office No 480867 whose registered office is at The Prince, Castlecomer, Co. Kilkenny, R95 X8ER, Ireland.

**"Conditions"** means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

**"Contract"** means the contract for the purchase and sale of the Goods.

**"Writing"** includes facsimile transmission, e-mail and comparable means of communication.

1.2. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

## 2. Application of Conditions

2.1. These Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer. All orders (written or otherwise) for Goods shall be deemed to be an offer by the Buyer to accept the Goods pursuant to these Conditions. All other terms and conditions, which the Buyer may purport to apply under any order, confirmation of order or similar document are hereby expressly excluded. In the event of any conflict between these Conditions and any conditions in any document submitted by the Buyer to the Seller including any contract, arrangement or agreement entered into or to be entered into between the Seller and the Buyer, the provisions of these Conditions shall prevail.

2.2. These Conditions comprise the entire conditions governing the contract between the Seller and the Buyer and supersede any or all representations, warranties, course of dealing or arrangements, whether written or oral, heretofore made or entered into between the Seller and the Buyer relating to the Goods.

## 3. The Contract of Sale

3.1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

3.2. No variation of these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

3.3. 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 the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

3.4. Any advice or recommendation given by the Seller 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 Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

3.5. 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 Seller shall be subject to correction without any liability on the part of the Seller.

## 4. Orders and specifications

- 4.1. The Seller reserves the right to not accept an order submitted by the Buyer.
- 4.2. The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 4.3. The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 4.4. If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.
- 4.5. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 4.6. No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), cost (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.
- 4.7. The Buyer will if requested by the Seller, take any reasonable steps to satisfy the Seller prior to execution of the order as to the Buyers credit worthiness, such as the provision of trade and bankers references or the guarantee of payment from a third party acceptable to the Seller. The Seller reserves the right to refuse the order, to delay the execution of the order, to request payment in part or in full prior to the execution of the order, or to cancel any Contract entered into with the Buyer prior to commencement of deliveries to the Buyer if the Sellers normal enquiries indicate that the Buyers credit may not be sufficient to meet the needs of a Contract.

## 5. The Price

- 5.1. The price of the Goods shall be the Seller's quoted price. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
- 5.2. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 5.3. The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller. The rates are applied in accordance with current legislation.

## 6. Payment Terms

- 6.1. Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 6.2. The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) within 30 days of the date of the Seller's invoice, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the title and property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

6.3. If the Buyer fails to make any payment on the due date then, interest shall accrue and be payable on the amount unpaid (both before and after any judgement) at the rate prescribed for statutory interest pursuant to the European Communities (Late Payment in Commercial Transactions) Regulations 2002 until payment is made in full

6.4. If the Buyer fails to make any payment on the due date then, without prejudice to Condition 6.3, Condition 10.2.3 and to any other right or remedy available to the Seller, the Seller shall be entitled to:-

6.4.1. cancel the contract or suspend any further deliveries or services to the Buyer; and

6.4.2. appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit.

### 7. Delivery of Goods

7.1. Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises or manufacturing facility at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.

7.2. Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

7.3. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

7.4. The Seller will not accept liability for shortages, breakages or non-delivery unless the Buyer gives notice in writing to the Seller within 7 days from the date of the invoice.

7.5. If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the agreed price of the Goods.

7.6. If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

7.6.1. store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

7.6.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

## 8. Risk and Title & Property in the Goods

- 8.1. Risk of damage to or loss of the Goods shall pass from the Seller to the Buyer:
- 8.1.1. in the case of Goods to be delivered at the Seller's premises or manufacturing facility, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
- 8.1.2. in the case of Goods to be delivered otherwise than at the Seller's premises or manufacturing facility, at the time of delivery of such Goods or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 8.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the title and property in the Goods, including full legal and beneficial ownership, shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods delivered to the Buyer under this and all other contracts between the Seller and the Buyer for which payment of the full price of the goods thereunder has not yet been paid. Payment of the full price of the Goods shall include the amount of any interest or other sum payable under the terms of this and all other contracts between the Seller and the Buyer under which the Goods were delivered.
- 8.3. Until such time as the title and property in the Goods passes to the Buyer, the Buyer shall:
- 8.3.1. not part with possession of the Goods otherwise than in accordance with this clause;
- 8.3.2. hold the Goods as the Seller's fiduciary agent and bailee;
- 8.3.3. take proper care of the Goods and take all reasonable steps to prevent damage to or deterioration of them;
- 8.3.4. keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property;
- 8.3.5. permit the Seller to enter upon any premises of the Buyer where the goods are stored to confirm that these conditions are being adhered to;
- 8.3.6. insure the Goods for their full value with a reputable insurer and, upon request, shall use reasonable endeavours to have the Seller's interest in the Goods noted on the insurance policy and until the title and property in the Goods passes to the Buyer, the Buyer shall hold the proceeds of any claim on the insurance policy on trust for the Seller and shall immediately account to the Seller with the proceeds;
- 8.3.7. notify the Seller immediately upon the happening of any of the events set out in condition 11;
- 8.3.8. give the Seller such information relating to the Goods as the Seller may from time to time require.
- 8.4. Until such time as the title and property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer where the Goods are stored and repossess the Goods. The Buyer agrees to procure for the Seller the consent of any such third party to repossession of the goods on the third party's premises.
- 8.5. The Buyer grants an irrevocable right and licence to the Seller to enter the Buyer's premises during normal business hours in order to inspect or repossess Goods to which it has retained title and the termination for any reason of any contract shall not affect the continuance in force of this right and licence.
- 8.6. The Seller reserves the right to repossess and resell any of the Goods to which it has retained title. The Seller's consent to the Buyer's possession of the Goods and any right the Buyer may have to possession of the Goods shall in any event cease upon the happening of any of the events set out in condition 11.

8.7. The Buyer may sell or use Goods to which the Seller has retained title in the ordinary course of the Buyer's business, subject to the express condition that any new product or products or any other thing containing any part of the Goods shall become the property of the Seller and shall be separately stored and marked by the Buyer to show that they belong to the Seller. The Seller shall hold the new product or products as trustee for itself and the Buyer and the Seller's interest as beneficiary of the trust shall be equal to the total of all amounts owing by the Buyer to the Seller.

8.8. The Buyer acknowledges that as a consequence of its fiduciary relationship with the Seller, it is under a duty to the Seller to hold the proceeds of sale of the Goods on trust for the Seller and not to mingle such proceeds with other money or pay them into an overdrawn bank account and shall ensure that such proceeds are at all material times identified as the Seller's money.

8.9. The Buyer agrees on request by the Seller to assign to the Seller all rights and claims which the Buyer may have against its sub-buyers or customers arising from such sales.

8.10. The Seller shall be entitled to recover the price (plus VAT) in the event of non-payment by the Buyer notwithstanding that property in any of the Goods has not passed from the Seller. The Seller may, by notice to the Buyer at any time after delivery, pass property in the Goods to the Buyer with effect from the date of the notice.

8.11. 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 moneys 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. Warranties and Liability of the Seller

9.1. Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material for a period of 12 months from the date of their initial use or 12 months from delivery, whichever is the first to expire.

9.2. The above warranty is given by the Seller subject to the following conditions:

9.2.1. the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

9.2.2. the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, vandalism, abnormal working conditions, failure to follow the Seller's instructions (whether given orally or in writing), misuse or alteration or repair of the Goods without the Seller's approval;

9.2.3. the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;

9.2.4. the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.

9.3. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Sale of Goods and Supply of Services Act, 1980), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.4. Where the Goods are sold to a consumer (within the meaning of the Sale of Goods and Supply of Services Act, 1980) the statutory rights of the Buyer are not affected by these Conditions.

9.5. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified in writing to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

9.6. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

9.7. Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

9.8. The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:

9.8.1. Act of God, explosion, flood, tempest, fire or accident;

9.8.2. war or threat of war, sabotage, insurrection, civil disturbance or requisition;

9.8.3. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

9.8.4. import or export regulations or embargoes;

9.8.5. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller, the Buyer or of a third party);

9.8.6. difficulties in obtaining raw materials, labour, fuel, parts or machinery;

9.8.7. power failure or breakdown in machinery.

### 10. Insolvency of the Buyer

10.1. This Condition applies if:

10.1.1. the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to the protection of the Court, has an examiner appointed to it or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction not involving insolvency); or

10.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

10.1.3. the Buyer ceases, or threatens to cease, to carry on business; or

10.1.4. the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10.2. If this Condition applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract 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.

## 11. General

11.1. 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.

11.2. No waiver by the Seller 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.

11.3. If any provision of these Conditions is held by any court, the Competition Authority or any other 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.

11.4. The Contract shall be governed by the laws of the Republic of Ireland, and the Buyer agrees to submit to the non-exclusive jurisdiction of the courts of the Republic of Ireland.