

RETAINAGROUP LIMITED

Terms and Conditions of Sale

1. Definitions	In these conditions:-
the "Supplier"	means Retainagroup Limited
the "Buyer"	means the person, company or organisation purchasing the Goods or Services from the Supplier
the "Goods"	mean the goods and/or services which the Supplier is to supply to the Buyer in accordance with these conditions
"Quotation"	means a quotation for the supply of Goods and/or the provision of Services by the Supplier

2. Basis of the Sale

2.1 The Supplier contracts on these conditions only, and acceptance by the Supplier of any order from a Buyer shall be upon these conditions and shall override any other terms and conditions stipulated or incorporated by the Buyer in its order or in any negotiations. Variations or representations will only be binding on the Supplier if confirmed in writing by an authorised officer of the Supplier.

2.2 Quotations/Proposals shall remain valid for a period of thirty days from the date of Quotation/Proposal unless otherwise agreed and they are given without obligation and the Supplier may alter or withdraw any quotation/proposal without notice at any time before the Buyer's acceptance.

2.3 Quotations/Proposals cover only the goods and/or services specified in them, and all additions, alterations and additional costs due to modified instructions shall be charged to the Buyer. For the avoidance of doubt a Quotation/Proposal is based on work being done in normal working hours and if, at the Buyer's request, overtime is worked an additional charge may be made.

3. The Goods

3.1 All descriptions and illustrations contained in the Supplier's catalogue, proposal, quotation, marketing information, price list and advertisements or otherwise communicated to the Buyer are intended to present merely a general idea of the Goods described and shall not form part of the contract.

3.2 If a sample of Goods supplied but not manufactured by the Supplier was exhibited to and inspected by the Buyer, it is hereby agreed that such samples were so exhibited and inspected solely to enable the Buyer to judge for himself the quality of the Goods and not so as to constitute a sale by sample.

3.3 Where Goods are supplied in batches of more than 1000 the Supplier reserves the right to deliver 1% more or less than the quantity stipulated on the purchase order or Quotation and the Buyer agrees to accept such quantity delivered in satisfaction of the order.

4. Price

4.1 The price of Goods is as stated on the Quotation/Proposal and is net of Value Added Tax at the appropriate rate.

4.2 Where carriage, insurance, storage or other charges are shown separately from the price of Goods, they are nevertheless payable by the Buyer at the same time as if they form part of the price and shall be treated as such for the purpose of these conditions.

4.3 If an order is placed in a response to a Quotation/Proposal which has ceased to be valid, the Supplier may alter the prices to reflect changes in costs of raw materials, labour, transport, etc. to those ruling at date of despatch and the Buyer will be notified as soon as possible of such alteration.

5. Cancellation

The Buyer may not cancel his confirmed order without the written consent of the Supplier. If such consent is given, it is made on the express condition that the Buyer shall indemnify the Supplier against all loss, damage, claims or actions arising out of such cancellation unless otherwise agreed in writing.

6. Payment

6.1 Payment for Goods/Services shall be made in sterling within thirty days of the date of invoice relating to the Goods/Services, but the Supplier reserves the right to require payment for the Goods/Services (or part thereof) prior to manufacture, delivery or despatch.

6.2 In the case of overdue payment, the Supplier may charge interest to the Buyer on the amount overdue calculated on a daily basis at the rate of 5% above the base lending rate of National Westminster Bank plc from time to time without prejudice to the other rights of the Supplier applying after as well as before judgement.

6.3 Payment on or before the due date is of the essence of the contract and is a condition precedent for any future deliveries to the Buyer or to its order.

6.4 All payments due from the Buyer under these Conditions shall be made without any setoff, deduction or deferment of any nature.

6.5 Notwithstanding the provisions of clause 6.1, upon the occurrence of any event under clause 11.1 any period of credit allowed for the Buyer on any contract with the Supplier, whenever made, shall cease to apply and payment for all Goods shall be or be deemed to have become due forthwith on delivery.

7. Delivery

7.1 Any time or date specified for delivery or performance is given in good faith as an estimate only and the Supplier shall not be liable for any direct or indirect loss, damage or expense howsoever arising from any delay in delivery or performance.

7.2 The Supplier may deliver by instalments and may treat each delivery as a separate contract.

7.3 The Buyer shall accept deliveries of Goods at the address stated on the purchase order when offered and shall be liable for any additional costs suffered by the Supplier in the event of wrongful refusal or delay in accepting delivery, in failing to provide premises, services or information for the Supplier to effect safe delivery, or in the event of future deliveries being withheld through the Buyer's non-payment.

7.4 Delivery shall take place upon collection of the Goods from the Supplier's premises by the Buyer or the carrier responsible for transportation of the Goods to the destination specified by the Buyer. Where the Supplier has arranged for such transportation of the Goods it shall be on behalf of the Buyer, whether or not such carriage is shown separately from the price of the Goods, and shall be at the Buyer's risk.

7.5 Where the Supplier arranges transportation of the Goods pursuant to clause 7.4 the Buyer shall examine the Goods forthwith upon receipt by the Buyer and shall within three days of such receipt report in writing to the Supplier any damage in transit or shortfall to enable a claim to be made, where appropriate. In case of breakages the Buyer must retain the damaged goods and packing material for inspection. The Buyer shall report in writing to the Supplier in the case of non-delivery within fourteen days of despatch or in the case of export within three days from the anticipated delivery date. If the Buyer's non-compliance with the above causes any claim to be refused by the carriers or the Buyer's act or omission shall in any way affect such a claim then, without prejudice to clause 7.4, the entire loss shall be borne of the Buyer.

8. Retention of Title

8.1 Property in the Goods shall not pass to the Buyer until the Buyer has paid to the Supplier all sums owed (under this or any other contract) by the Buyer to the Supplier. The Goods shall be at the risk of the Buyer on delivery to the carrier responsible for transporting the Goods to the destination specified by the Buyer.

8.2 Without prejudice to any other rights the Supplier may have, the Supplier may recover the Goods and the Buyer agrees that the Supplier, its agents or employees may enter on the Buyer's premises and remove the Goods at any time, if any of the events in Clause 11.1 occur and the property in the Goods has not passed to the Buyer.

8.3 Until property in the Goods has passed to the Buyer, the Buyer:-

- (a) shall not pledge the Goods or documents of title thereon or allow any lien to arise thereon.
- (b) shall store the Goods on its premises separately from its own goods and those of any other person and in a manner which makes them readily identifiable as Goods of the Supplier
- (c) shall not deal with or dispose of the Goods or documents of title thereto or any interest therein (other than by sale to an independent purchaser buying entirely in the ordinary course of the Buyer's business)
- (d) hold itself out as the Supplier's agent in respect of the Goods

8.4 If payment of any sum is overdue the Supplier shall have the right to commence proceedings against the Buyer for the price, notwithstanding that property in the Goods has not yet passed to the Buyer.

9. Warranties and Liability

9.1 The Supplier hereby warrants that Goods manufactured by the Supplier are free from any material defect in workmanship and materials and correspond with any agreed written specification but the Supplier's liabilities under this warranty shall be limited to making available free of charge the labour and materials required to make goods any such defects or

(at the Supplier's option) replacing any defective Goods. The Supplier's liability under this warranty is also conditional upon:

- (a) written notice of the defect being given to the Supplier within fourteen days after discovery of the same and in any event within three months after either the date of delivery or the date on which the Buyer was informed that the Goods are ready for delivery whichever first occurs; and
- (b) the Goods having been stored and used by the Buyer properly and in accordance with any instructions of the Supplier prior to the defect occurring; and
- (c) the Goods not have been subjected to any abnormal or improper use or modification; and
- (d) the Goods having been returned at the Supplier's request, but at the Buyer's expense, for inspection.

9.2 The warranty contained in 9.1 above is given in lieu of and shall be deemed to exclude all other warranties and conditions whether express or implied whether arising by common law, statute or otherwise other than that relating to title to the Goods.

9.3 All Goods are sold on the basis that the Buyer is neither a consumer nor deals as a consumer within the meaning of the Unfair Contract Terms Act 1977 and the Unfair Terms in Consumer Contracts Regulations 1995 and that the Buyer has satisfied itself as to the suitability of the Goods for use or resale in accordance with its own specialised knowledge and skill

9.4 The Supplier will at the request and expense of the Buyer use its reasonable endeavours to give the Buyer the benefit of any warranty, guarantee or undertaking supplied by a manufacturer not being the Supplier in relation to any Goods or parts or materials.

9.5 Save as provided under the Unfair Contract Terms Act 1977 the Supplier's liability for any loss, injury or damage of any nature whatsoever, whether direct or consequential arising out of or in connection with any Goods supplied by the Supplier or resulting from the use thereof and whether arising out of a breach of implied or express term warranty or condition shall not exceed the cost to the Buyer of replacing or repairing the Goods provided that the Supplier is afforded a reasonable opportunity of replacing or repairing the Goods.

9.6 Any property supplied to the Supplier by or on behalf of the Buyer will be held, worked on and carried at the Buyer's risk save where the Supplier or its employees are shown to have been negligent.

10. Force Majeure

The Supplier shall bear no liability for loss, damage or delay howsoever arising caused in circumstances outside its control including (but not limited to) Acts of God, war, strike, civil commotion, work to rule or go slow, over time bans, lock-outs, fire, flood, drought or inability to procure materials or articles except at increased prices due to any of the foregoing causes (and in these circumstances may suspend or cancel the whole or part of any delivery). The Supplier shall endeavour to notify the Buyer as quickly as reasonability possible if a force majeure event occurs.

11. Default

11.1 Without prejudice to any other rights it may have, and without prejudice to the provisions of clause 8 above, the Supplier may, by notice to the Buyer, terminate any contract between the Buyer and Supplier forthwith and/or immediately recover from the Buyer all sums due from the Buyer under any contract with the Supplier (notwithstanding any period of credit which may have been allowed) together with any accrued interest and other legitimate charges and any loss caused to the Supplier as a result of any termination if:

(a) any payment due by the Buyer to the Supplier is overdue in whole or in part; or (b) the Buyer shall commit any breach of any of the terms of any contract with the Supplier provided that if the breach is remediable the Supplier has given to the Buyer notice of such breach which has not been remedied within seven days thereafter; or

(c) a resolution is passed or a Court Order made resolving or ordering the Buyer to be placed into liquidation or ordering that an administrator be appointed over all or any of its assets; or (d) a receiver or administrative receiver is appointed over all or any of the assets of the Buyer; or

(e) the Buyer (being an individual) has a petition in bankruptcy entered against him; or (f) the Buyer ceases to/or threatens to cease to carry on trading

11.2 Where the Buyer is situated outside of the United Kingdom the Supplier shall be entitled to terminate the contract and/or recover all sums due pursuant to Clause 11.1 if any event occurs which is analogous to the events described in 11.1 (c.) to 11.1(e.) inclusive.

12. Intellectual Property Rights

12.1 Where the Goods have been manufactured according to designs or configurations or processes specified or supplied by the Buyer the Buyer represents and warrants to the Supplier that the Goods so designed or configured and processes so used do not infringe the rights of any person whether in respect of any patent, trade mark, registered design, copyright, confidential disclosure or otherwise howsoever to prevent or restrict the sale or use of the Goods or materials or the use of such processes in any part of the world. The Buyer shall indemnify the Supplier against all actions suits claims demands losses charges costs and expenses which the Supplier may suffer or incur in connection with any claim by any third party alleging facts which, if established, would indicate a breach of the representations and warranties contained in this paragraph.

13. Waiver

No waiver by the Supplier of any breach of contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision of the contract.

14. Invalidity of Contractual Term

The parties agree to be bound by these conditions which they consider to be reasonable. If any clause of these conditions is held by any Court or competent authority as invalid or unenforceable in whole or in part the validity of the remainder of these Conditions and of the remainder of the provisions in question shall not be affected thereby.

15. Assignment

The Buyer shall not assign or transfer any contract to which these Conditions apply nor the benefit therefore to any person whatsoever.

16. Proper Law of the Contract

The construction, validity and performance of any contract shall be governed in all respects by the law of England and the Buyer shall submit to the exclusive jurisdiction of the English Courts.

17. Notices

Any notice required to be given under these conditions may be sent by pre-paid first class post, telex or facsimile to the principal place of business or registered office of the party to

whom the notice is being sent. If sent by post, it shall be deemed to have been served (until the contrary is proved) on the second working day after the date of posting.

18. International Sales Contracts

18.1 In the case of international sale of goods contracts, the price quoted is ex works to the Supplier, but the Supplier may arrange carriage to a destination specified by the Buyer, if so requested in writing by the Buyer. The Buyer shall be responsible for all taxes, import duties, delivery charges and other costs arising and for complying with any legislation or regulations governing the import of Goods.

18.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon in such country.