

Fairfield Trading Company Limited General Terms and Conditions of Sale

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1 **Definitions and Interpretation**

1.1 In these Conditions the following words have the following meanings:

"**Company**" means Fairfield Trading Company Limited (company number 4577633) is a company registered in England and Wales.

"**Contract**" means any contract between the Company and the Customer for the sale of Goods and/or provision of Services, incorporating these Conditions.

"**Customer**" means the person(s), firm or company who purchases the Goods and/or Services from the Company.

"**Goods**" means any goods agreed in the Contract to be supplied to the Customer by the Company (including any part or parts of them).

"**Services**" means any Services agreed in the contract to be provided to the Customer by the Company.

1.2 In these Conditions references to a gender include every gender, reference to persons include an individual, company, corporation, firm or partnership and reference to the singular include the plural and vice versa as the context admits or requires.

1.3 Headings are for ease of reference only and shall not affect the construction of these Conditions.

2 **Basis of Contract and Applicability**

2.1 Subject to any variation under Condition 2.3 the Contract will be subject to these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document whatsoever and whenever).

2.2 Any variation to these Conditions and any representations about the Goods or Services shall have no effect unless expressly agreed in writing and executed by the Company. Thus, the Purchaser's delivery terms must be expressly agreed upon in writing to become effective. If the Supplier has undertaken to assemble the Product the Specific Terms and Conditions of Assembly shall be applicable, in addition to these General Terms and Conditions.

2.3 Each order for Goods or Services by the Customer from the Company shall be deemed to be an offer by the Customer to purchase Goods or Services subject to these Conditions.

2.4 No order placed by the Customer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company commences manufacture of the Goods, their appropriation to the Customer's order or despatch of the Goods to the Customer. Any order shall be accepted entirely at the discretion of the Company.

2.5 It is the Customer's obligation to ensure that the terms of its order and any applicable specification are complete and accurate.

2.6 Any quotation or estimate made by the Company is given subject to these Conditions. Without prejudice to the Company's right not to accept an order, quotations will be valid for 30 days from date of issue.

2.7 The Customer can only cancel an order (or any part of an order) which the Company has already accepted, with the Company's prior agreement in writing and provided that the Customer indemnifies the Company in full in terms

established by the Company. The Company is not bound to agree to any such cancellation and may complete such order even if the Customer purports to cancel it.

3 Description of the Goods and Services

- 3.1 The description of the Goods or Services shall be set out in the Company's acknowledgement of order or, in its absence, the Company's quotation.
- 3.2 All drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions, details or illustrations contained in the Company's catalogues or online or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods or Services described in them and they will not form part of the Contract unless otherwise agreed in writing. The Supplier is not obliged to provide blueprints or other documentation for the manufacturing of a Product or spare parts.

4 Delivery and Acceptance of Goods

- 4.1 Unless otherwise agreed in writing by the Company delivery of the Goods shall take place at the Company's place of business in normal business hours and the Customer shall take delivery of the Goods within [7] days of the Company giving the Customer notice that the Goods are ready for delivery.
- 4.2 Any dates specified by the Company for delivery of the Goods are intended to be an estimate only and time for delivery shall not be of the essence. If no dates are so specified, delivery will be within a reasonable time.
- 4.3 If for any reason the Customer does not accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations then the Goods will be deemed to have been delivered, risk passing to the Customer (including for loss or damage caused by the Company's negligence) and the Company may:
- (a) store the Goods until actual delivery whereupon the Customer will be liable for all related costs and expenses (including without limitation storage and insurance); or
 - (b) sell the Goods at the best price readily obtainable and (after deduction of all reasonable storage and selling expenses) charge the Customer for any shortfall below the Contract price.
- 4.4 The Customer will provide at its expense at the place of delivery adequate and appropriate equipment and manual labour for loading the Goods.
- 4.5 Any pre-delivery agreed acceptance tests shall be conducted at the premises of the manufacturer of the Product and at the Purchaser's expense, unless otherwise agreed in writing. If the parties have not specifically agreed on technical requirements and the manner of conducting the acceptance test, the acceptance test shall be conducted in accordance with industry practice of the relevant industry in the UK. The Supplier shall draw up a record of the acceptance test and shall provide said record to the Purchaser. The acceptance test shall be approved in the record. If the Purchaser has not raised legitimate objections in writing within 5 days of a conducted acceptance test, the Purchaser shall be considered to have accepted the acceptance test. If the Product is not in conformity with the agreement, the Supplier shall urgently see to it that necessary corrections are carried out, provided the non-conformity is of significance for the use of the Product. Thereafter, the Purchaser is entitled to a new acceptance test.
- 4.6 The Company shall be entitled at its discretion to make delivery of the Goods by instalments and to invoice the Customer for each instalment individually. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance

with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated or to refuse to accept subsequent instalments.

4.7 The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.

4.8 The Customer will be deemed to have accepted the Goods as being in accordance with the Contract unless:

- (a) within 72 hours of the date of delivery of the Goods, the Customer notifies the Company in writing of any defect or other failure of the Goods to conform with the Contract (which would be apparent upon reasonable inspection and testing of the Goods within 72 hours; or
- (b) the Customer notifies the Company in writing of any defect or other failure of the Goods to conform with the Contract within a reasonable time where the defect or failure would not be so apparent within 7 days of the date of delivery,

failing which the Customer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

4.9 Goods, once delivered, may not be returned unless their discretionary return is agreed in advance in writing by the Company, and subject to the following conditions:

- (a) Goods are returned in a new and unused condition and are no more than 12 months old from date of supply;
- (b) Any packaging remains unbroken and in reasonable condition;
- (c) All transport and other re-delivery costs of whatever nature are paid by the Customer;
- (d) Payment by the Customer to the Company of a restocking charge of 25% of the net invoice value of the relevant Goods or a "Two for One" stock order is provided at the time of the return; and
- (e) Returned goods shall be accompanied by a written record of invoice number, date and a note of reasons for their return.

4.10 The Company will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor will any delay entitle the Customer to terminate or rescind the Contract [unless such delay exceeds [90] days].

5 Passing of Risk and Legal Title

5.1 The Goods shall be at the risk of the Customer from the time of delivery.

5.2 Full legal, beneficial and equitable title to and property in the Goods shall remain vested in the Company (even though they have been delivered and risk has passed to the Customer) until:

- (a) payment in full, in cash or cleared funds, for all the Goods has been received by the Company; and
- (b) all other money payable by the Customer to the Company on any other account or under the Contract or any other contract has been received by the Company.

5.3 Until full legal, beneficial and equitable title to and property in the Goods passes to the Customer:

- (a) the Customer shall hold the Goods on a fiduciary basis as the Company's bailee;
- (b) the Customer shall store the Goods at its premises in a proper manner in conditions which adequately protect and preserve the Goods and shall insure them, without any charge to the Company, and not tamper with any identification upon the Goods or their packaging and shall ensure that they are stored separately from any other goods (whether or not supplied by the Company) and are clearly identifiable as belonging to the Company and the Company shall be entitled to examine any such Goods in storage at any time during normal business hours upon giving the Customer reasonable notice of its intention to do so;
- (c) the Company may at any time, on demand and without prior notice, require the Customer to deliver the Goods up to the Company and the Company may repossess and resell the Goods if any of the events specified in Condition 13 occurs or if any sum due to the Company from the Customer under the Contract or on any other account or under any other contract is not paid when due;
- (d) for the purposes of this Condition 5 the Company, its employees, agents and sub-contractors will be entitled to free and unrestricted access to any premises owned, occupied or controlled by the Customer and/or any other location where any of the Goods are situated at any time without prior notice;
- (e) the Company shall be entitled to maintain an action against the Customer for the price of the Goods notwithstanding that legal, equitable and beneficial title to and property in the Goods has not passed to the Customer; and
- (f) Not used.

5.4 The Company's rights and remedies set out in this Condition 5 are in addition to and shall not in any way prejudice, limit or restrict any of the Company's other rights or remedies under the Contract or in law or equity.

6 Provision of Services

Not used

7 Contract Price

7.1 Unless otherwise agreed by the Company in writing the price for the Goods and Services shall be the price set out in the Company's current price list or quotation on the date of delivery or deemed delivery of the Goods, or completion as deemed completion of performance of the Services. Upon variations in exchange rates exceeding 2 % up to the time of invoicing of the Product, the Supplier may adjust the indicated prices.

7.2 Unless otherwise agreed in writing the price for the Goods and/or Services shall be exclusive of any value added tax or other similar taxes or levies and all costs or charges in relation to packaging, labelling, loading, unloading, carriage, freight and insurance unless otherwise agreed in writing all of which amounts the Customer will pay, where appropriate, in addition when it is due to pay for the Goods and/or Services.

8 **Payment Terms**

- 8.1 Payment of the price for the Goods and/or Services is due 30 days net monthly after the earlier of:
- (a) delivery of Goods or provision of Services; or
 - (b) the date of invoice.
- 8.2 Time for payment shall be of the essence. The Purchaser shall under no circumstances, such as due to delays or deficiencies, be entitled to withhold or delay payment.
- 8.3 No payment shall be deemed to have been received until the Company has received cleared funds.
- 8.4 Notwithstanding any other provision, all payments payable to the Company under the Contract shall become due immediately upon termination of this Contract for whatever reason.
- 8.5 Not used
- 8.6 If payments received from the Customer are not stated to refer to a particular invoice, the Company may appropriate such payment to any outstanding invoice addressed to the Customer from the Company.
- 8.7 No indulgence granted by the Company to the Customer concerning the Customer's obligations under this Clause 8 shall be or be deemed to be a credit facility but if any such facility is granted to the Customer by the Company, the Company may withdraw it at its sole discretion at any time.
- 8.8 If any sum due from the Customer to the Company under the Contract or any other contract is not paid on or before the due date for payment then all sums then owing by the Customer to the Company shall become due and payable immediately and, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
- (a) cancel or suspend its performance of the Contract or any order including suspending deliveries of the Goods and suspending delivery of any other goods to the Customer and suspending provision of the Services or other services until arrangements as to payment or credit have been established which are satisfactory to the Company;
 - (b) appropriate any payment made by the Customer to such of the Goods or such of the Services (or any goods or services supplied under any other contract between the Customer and the Company) or as the Company may think fit;
 - (c) require the Customer to pay for Goods prior to their despatch or collection from the Company's place of business;
 - (d) suspend performance of Services remaining to be carried out; and
 - (e) charge the Customer:
 - (i) interest calculated on a daily basis on all overdue amounts (both before and after judgment) until actual payment at the rate of eight per cent (8%) per annum above the UK base lending rate prevailing from time to time until payment is made in full; and

- (ii) The cost of obtaining judgment or payment to include all reasonable professional costs (including legal fees) and other costs of issuing proceedings or otherwise pursuing a debt recovery procedure.

9 Warranty of Quality of Goods and Services

9.1 If the Customer establishes to the Company's reasonable satisfaction that there is a defect in the materials or workmanship of the Goods manufactured or there is some other failure by the Company in relation to the conformity of the Goods with the Contract or the Services have not been performed with reasonable care and skill, then the Company shall at its option, at its sole discretion and within a reasonable time;

- (a) repair or make good such defect or failure in such Goods free of charge to the Customer (including all costs of transportation of any Goods or materials to and from the Customer for that purpose);
- (b) replace such Goods with Goods which are in all respects in accordance with the Contract or re-perform such Services; or
- (c) issue a credit note to the Customer in respect of the whole or part of the Contract price of such Goods or Services as appropriate having taken back such Goods or materials relating to such Goods or Services

subject, in every case, to the remaining provisions of this Condition 9 provided that the liability of the Company under this Condition 9 shall in no event exceed the purchase price of such Goods or Services and performance of any one of the above options shall constitute an entire discharge of the Company's liability under this warranty.

9.2 Condition 9.1 shall not apply unless the Customer:

- (a) notifies the Company in writing of the alleged defect within 7 days of the time when the Customer discovers or ought to have discovered the defect and in any event within 12 months of the delivery of the Goods or 3 months of performance of Services to the Customer or such other periods as agreed by the Company in writing; and
- (b) affords the Company a reasonable opportunity to inspect the relevant Goods or the location at which the Services were performed and, if so requested by the Company and where it is reasonable to do so, promptly returns to the Company or such other person nominated by the Company a sample of the Goods or materials relating to the Services within 14 days, carriage paid by the Customer, for inspection, examination and testing and/or otherwise permit the Company to have access to the Goods or such materials at the Customer's premises or other location where they may be or the Services were performed for such purposes.

9.3 If the Company elects to replace the Goods or re-perform the Services pursuant to Condition 9.1, the Company shall deliver the replacement Goods to or re-perform the Services for the Customer at the Company's own expense at the address to which the defective Goods were delivered and the legal, equitable and beneficial title to the defective Goods which are being replaced shall (if it has vested in the Customer) re-vest in the Company and the Customer shall make any arrangements as may be necessary to deliver up to the Company the defective Goods which are being replaced or materials relating to the previously performed Services.

9.4 The Company shall be under no liability under the warranty at Condition 9.1 above:

- (a) in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Company's approval;

- (b) if the total price for the Goods or Services has not been paid by the due date for payment;
- (c) for any Goods manufactured or appropriated to the Contract in accordance with any design, specification, instruction or recommendation made to the Company by the Customer, including the provision of inaccurate, ambiguous or incomplete information provided by the Customer, or for any Services provided in accordance with specifications, instructions or recommendation issued by the Customer;
- (d) in respect of any type of defect, damage or wear specifically excluded by the Company by notice in writing;
or
- (e) if the Customer makes any further use of the Goods after giving notice in accordance with Clause 9.2.

9.5 The warranties set out in this document are the only warranties which shall be given by the Company and all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

10 Exclusion and Limitation of Liability.

10.1 Condition 4 and this Condition 10, set(s) out the entire liability of the Company (including any liability for the acts or omissions of its sub-contractors and any member of its Group) in respect of any breach of these Conditions or the Contract and any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 Nothing in these Conditions shall exclude or limit the Company's liability for death or personal injury caused by the Company's negligence or for fraudulent misrepresentation.

10.3 The Company shall not be liable for any economic loss of whatever nature (whether or not such loss or damage was foreseen, direct, foreseeable, known or otherwise), including loss of anticipated profits, loss of actual profits (direct or indirect), loss of anticipated savings, loss of business, or for any indirect, special or consequential loss or damage howsoever caused or any losses arising as a result of any third party bringing a claim in respect of any nature whatsoever.

10.4 Subject to clauses 10.1 - 10.3 above the total aggregate liability of the Company arising out of, or in connection with the performance or contemplated performance of this Contract whether for negligence or breach of contract or any case whatsoever shall in no event exceed 70% of the price paid or payable by the Customer. The Customer shall indemnify and hold harmless the Company for all liability exceeding said amount.

10.5 The price of the Goods and/or Services has been calculated on the basis that the Company will exclude or limit its liability as set out in these Conditions and the Customer by placing an order agrees and warrants that the Customer shall insure against or bear itself any loss for which the Company has excluded or limited its liability in these Conditions and the Company shall have no further liability to the Customer.

11 Subcontracting, Assignment and Third Party Rights

11.1 The Customer shall not be entitled to assign, charge, subcontract or transfer the Contract or any part of it without the prior written consent of the Company.

11.2 The Company may assign, charge, subcontract or transfer the Contract or any part of it to any person.

11.3 A person who is not a party to the Contract (including without limitation any employee, officer, agent, representative or sub-contractor of either party) shall not have any right to enforce any term of the Contract which expressly or by

implication confers a benefit on that person without the express prior agreement in writing of the Company and the Customer.

11.4 Not used.

12 **Force Majeure**

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods or Services ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business and its obligations under the Contract due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, pandemic, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials provided that, if the event of force majeure continues for a continuous period in excess of 3 months, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

13 **Breach of Contract or Insolvency**

13.1 The Company may, as it thinks fit, (without prejudice to any other rights or remedies it may have against the Customer) immediately suspend further performance of the Contract or cancel any outstanding provision of the Services or delivery of the Goods or stop any Goods in transit or by notice in writing to the Customer terminate the Contract without liability to the Company if:

- (a) the Customer commits a material breach of any of its obligations under the Contract which is incapable of remedy;
- (b) the Customer fails to remedy a breach of its obligations under the Contract (except as to payment) which is capable of remedy, or persists in any breach of any of its obligations under the Contract after having been requested in writing by the Company to remedy or desist from such breach within a period of 14 days;
- (c) any sum payable under the Contract is not paid within 30 days of its due date for payment in accordance with this Contract;
- (d) any distress execution or diligence is levied upon any of the Customer's goods or property and is not paid out within 7 days or it being levied;
- (e) the Customer (being a partnership) or the Customer's partner offers to make any arrangements with or for the benefit of the creditors of the Customer or the Customer's partner generally or there is presented in relation to the Customer or the Customer's partner a petition of bankruptcy;
- (f)
 - (i) the Customer (being a limited company) is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or
 - (ii) the Customer calls a meeting for the purpose of passing a resolution to wind it up, or such a resolution is passed; or
 - (iii) the Customer presents, or has presented, a petition for a winding up order; or
 - (iv) an application to appoint an administrator is made in respect of the Customer or a notice of intention to appoint an administrator is filed in respect of the Customer; or

- (v) any other steps are taken by the Customer or any other person to appoint an administrator over the Customer; or
 - (vi) the Customer has an administrator, administrative receiver, or receiver appointed over all or any part of its business, undertaking, property or assets; or
 - (vii) the Customer takes any steps in connection with proposing a company voluntary arrangement or a company voluntary arrangement is passed in relation to it;
- (g) the Customer ceases, or threatens to cease, to carry on business; or
- (h) the Company reasonably believes that any of the events specified in Condition 13.1 (a) to (g) above is about to occur in relation to the Customer.
- 13.2 Notwithstanding any such termination or suspension in accordance with Conditions 12 or 13.1 above the Customer shall pay the Company at the Contract rate for all Goods delivered or Services provided up to and including the date of suspension or termination and the termination of the Contract or any contract for whatever reason shall not affect the rights or remedies of either party in respect of any antecedent breach or in respect of any such owing or to become owing to the other.

14 Notices

- 14.1 All notices between the parties about this Contract must be in writing and delivered by hand, sent by pre-paid first class post, sent by facsimile transmission or acknowledged email:
- (a) (in case of notices to the Company) to its registered office or such other address as shall be notified to the Customer by the Company in accordance with this Condition 14; or
 - (b) (in the case of the notices to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of this Contract or such other address as shall be notified to the Company by the Customer in writing.
- 14.2 Not used
- 14.3 Notices addressed to the Company shall be marked for the attention of the Managing Director or the Company Secretary.

15 General

- 15.1 Any intellectual property rights (including, without limitation, patents, inventions, technical information, software, firmware, registered and unregistered designs, trademarks and service marks (registered or not) and copyright and any applications for them) created by the Company in the course of the performance of the Contract or otherwise in the manufacture of the Goods or the provision of the Services shall remain the Company's property. Nothing in the Contract shall be deemed to have given the Customer a licence or any other right to use any of the intellectual property rights of the Company.
- 15.2 Nothing in the Contract shall create, or be deemed to create a partnership or joint venture or relationship of employer and employee or principal and agent between the parties.
- 15.3 The rights and remedies of either party in respect of the Contract shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by such party to the other nor by any failure of, or delay by the said party in ascertaining or exercising any such rights or remedies. The waiver by either party of any breach of the

Contract shall not prevent the subsequent enforcement of that breach and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

- 15.4 If at any time any one or more of the Conditions of the Contract (or any sub-Condition or paragraph or any part of one or more of these Conditions) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from the Contract and the validity and/or enforceability of the remaining provisions of the Contract shall not in any way be affected or impaired as a result of that omission.
- 15.5 The Contract sets out the entire agreement and understanding between the Customer and the Company in connection with the sale of the Goods and provision of the Services and shall supersede and replace all documentation previously issued by the Company purporting to set out its terms and conditions of sale of the Goods.
- 15.6 Both the Company and the Customer shall each keep confidential and shall not, without the prior written consent of the other, disclose to any third party or otherwise make public the terms or existence of the Contract or any other confidential or sensitive information of the other party. Neither party may, without the other party's approval, provide third parties with documents or otherwise disclose information of confidential character about the Contract or the other party, unless disclosure is necessary for the performance of the Contract. The parties shall enter into non-disclosure agreements with its employees or take other appropriate measures to ensure that confidentiality is maintained. The confidentiality undertaking does not apply to information, which a party can demonstrate was duly brought to its notice other than by the Contract, or which is commonly known. The confidentiality undertaking shall remain in full force and effect after the termination of this Contract.
- 15.7 Export and import licenses, certification etc. The Company's obligation to deliver a Product is contingent on obtaining and maintaining adequate export, import and re-export licenses. Should such licenses not be obtained, or valid licenses revoked without the Company's negligence, the Company is relieved from its obligation to deliver the Product, and the Customer may not claim responsibility against the Company in such cases. The Customer undertakes to comply with applicable regulation and, to the extent necessary, co-operate in the obtaining of export and import licenses for a purchased Product, and upon possible re-export of said Product or other product in which the purchased Product is integrated, co-operate in obtaining the necessary authorisation. Possible certification of and all licence and associated costs for the Product shall be paid by the Customer.

16 Law and Jurisdiction

- 16.1 This Contract and any dispute or claim arising out of or in connection with it shall be governed by and be construed in all respects in accordance with English law.
- 16.2 All disputes or claims arising out of or relating to this Contract shall be subject to the exclusive jurisdiction of the English courts to which the parties irrevocably submit.