

## TERMS & CONDITIONS OF SALE

DeeLit Group Limited (the "Seller")

### 1 DEFINITIONS AND INTERPRETATION

1.1 The following definitions and rules of interpretation in apply in these Conditions:

**"Business Day"** means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**"Buyer"** means the person(s) whose name(s) is/are set out in the Statement of Work or who purchases Goods from the Seller.

**"Conditions"** means the terms and conditions set out in this document (as amended from time to time in accordance with condition 16.6).

**"Contract"** means the contract between the Seller and the Buyer for the sale and purchase of the Goods in accordance with these Conditions and the Statement of Work.

**"Contract Period"** means the duration of the Contract specified in the Statement of Work.

**"Delivery Location"** has the meaning given in condition 8.1.

**"Force Majeure Event"** means an event, circumstance or cause beyond the Seller's reasonable control including but not limited to strikes, lockouts, trade disputes or labour troubles, acts of God, acts of the Buyer or its agents, embargo or other government act or request, fire, accident, war, riot, delay in transportation or inability to obtain adequate labour or manufacturing facilities.

**"Goods"** means the goods (including any instalment of the Goods or any parts for them) which the Seller is to supply pursuant to or in connection with an Order and the Contract.

**"Nominated Receiving Agent"** means the person authorised by the Buyer to receive delivery of the Goods from the Seller.

**"Order"** means an order for the Goods submitted by the Buyer.

**"Statement of Work"** means the statement of work issued by the Seller to the Buyer (if any).

1.2 In these Conditions, unless the context otherwise requires:

1.2.1 words in the singular include the plural and vice versa;

1.2.2 a reference to a **"person"** includes any individual (and their personal representatives), firm, body corporate, association, partnership, government or state (whether or not having a separate legal personality);

1.2.3 a reference to any condition is to that condition as amended;

1.2.4 any words following the terms "including", "include" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms; and

1.2.5 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

## **2 ACCEPTANCE AND AMENDMENT**

2.1 These Conditions and the Statement of Work (if any) shall apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate or which are implied by trade, custom, practice or course of dealing. The Buyer acknowledges that all tenders, offers, quotations, Orders, acceptances and deliveries relating to the sale and supply of the Goods by the Seller shall be subject to these Conditions and the Statement of Work, unless the Seller otherwise agrees in writing.

2.2 No other conditions or modifications of these Conditions shall be binding on the Seller unless the Seller agrees thereto in writing and the Seller shall not be deemed to accept such other conditions nor to waive any of these Conditions by failing to object to provisions contained in any Order or other communications from the Buyer.

2.3 This Contract shall commence on the commencement date specified in the Statement of Work and shall continue for the Contract Period, unless terminated earlier in accordance with condition 14. If a Contract Period is not specified in the Statement of Work or a Statement of Work has not been issued by the Seller, the Contract will come into existence on the date the Seller issues a written acknowledgment to the Buyer accepting the Buyer's Order.

2.4 If there is any conflict or ambiguity between the Statement of Work and these Conditions, the provisions of the Statement of Work shall prevail.

2.5 The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions and the Statement of Work (if any). The Buyer is responsible for ensuring that the terms of the Order are complete and accurate.

2.6 The Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Order to the Buyer.

2.7 Any Order issued to the Seller, or any acceptance of a tender by the Seller, shall be deemed as conclusive proof that the Buyer has accepted these Conditions and the terms of the Statement of Work (if any). The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer that is inconsistent with these Conditions and/or the Statement of Work (if any).

2.8 No representative, agent or salesman who is not a director of the Seller has any authority to amend or waive any of these Conditions, the Statement of Work or other provisions of the Contract.

## **3 DESCRIPTION**

3.1 Any samples, drawings, descriptive matter or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

3.2 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgement of Order, invoice or other document of information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3.3 The Seller reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements and/or by the manufacturer of the Goods.

## **4 CANCELLATION**

4.1 No cancellation of accepted Orders will be permitted other than by express agreement in writing by the Seller.

4.2 If the Seller permits the Buyer to cancel an Order, the Buyer shall pay the Seller all costs incurred by the Seller in fulfilling the Order up until the date of receipt of the cancellation of such Order.

## **5 PRICES**

5.1 The price of the Goods for the Contract Period shall be the prices set out in the Statement of Work. If the price of the Goods is not set out in the Statement of Work or a Statement of Work has not been issued by the Seller, the price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid) the price listed in the Seller's published price list current at the date of acceptance of the Order.

5.2 If the prices of the Goods are not set out in the Statement of Work or a Statement of Work is not issued by the Seller and the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply.

5.3 All prices quoted are valid for 30 days only, after which time they may be altered by the Seller without giving notice to the Buyer. A quotation given by the Seller shall not constitute an offer.

5.4 The Seller reserves the right to amend prices to cover any change in its costs (including without limitation costs of labour, transport and services, and fluctuations in currency exchange rates and any tax, fee or charge imposed by any government or other authority) up to the date of despatch of Goods to the Buyer.

5.6 Unless stated otherwise in: a Statement of Work; any quotation; or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging, storage and insurance.

5.7 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller. The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller.

## **6 PAYMENT TERMS**

6.1 The Seller shall invoice the Buyer for the price of the Goods at the times set out in the Statement of Work. If the Statement of Work does not specify the times at which the Seller will issue its invoices for the price of the Goods or a Statement of Work has not been issued by the Seller, unless otherwise agreed in writing by the Seller, the Seller shall issue its invoices for the price of the Goods prior to despatch of those Goods.

6.2 The Buyer shall pay invoices in full in cleared funds within the payment period specified in the Statement of Work. If the payment period is not specified in the Statement of Work or a Statement of Work has not been issued by the Seller, payment shall be made within 30 days of the invoice date. Payment shall be made to the bank account nominated in writing by the Seller.

6.3 The Buyer shall pay all amounts due under the Contract in full without set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law) including in respect of promotional claims unless it has obtained the prior written consent of the Seller to make such deductions or withholdings. The Seller may at any time, without limiting any of its other rights or remedies, set off any amount owing to it against any amount payable by the Seller to the Buyer.

6.4 If the Buyer disputes any invoice, the Buyer shall promptly notify the Seller in writing and by no later than 7 Business Days from the date of such invoice. The parties shall negotiate in good faith to attempt to resolve the dispute

promptly. Where only part of an invoice is disputed, the Seller shall be entitled to issue a revised invoice in respect of the undisputed amount which, for the avoidance of doubt, shall be dated as at the date of the original invoice and shall be paid on the original due date in accordance with condition 6.2. The Seller may suspend the supply of the Goods if any sums not disputed in good faith are not paid by their due date for payment.

6.5 If payment is overdue the Seller shall (without prejudice to any right to damages or other remedy), be entitled to suspend the provision of the Goods, until payment is made and/or to cancel the Order in relation to the whole or part of the Goods remaining undespached.

6.6 If the Buyer makes any unauthorised deductions or withholdings in contravention of condition 6.3, the Seller shall (without prejudice to any right to damages or other remedy), be entitled to suspend the provision of the Goods and/or to cancel the Order in relation to the whole or part of the Goods remaining undespached until the Buyer pays such sums which have been deducted or withheld in contravention of condition 6.3 to the Seller.

6.7 The Seller reserves the right to charge interest at an annual rate of 4% above the base rate of Royal Bank of Scotland plc from time to time on all overdue monies. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.

6.8 The Buyer may be entitled to receive a retrospective rebate and/or an invoice discount from the Seller if the Statement of Work states that the Buyer is entitled to such rebate and/or discount or if the Seller notifies the Buyer that the Buyer is entitled to such rebate and/or discount at the rates and on the terms set out in the Statement of Work or notified by the Seller to the Buyer. The Buyer shall only be entitled to receive such rebate and/or invoice discount if the Buyer has complied with the provisions of condition 6.3 and has paid all sums due to the Seller under the Contract on the due date for payment.

## 7 MINIMUM ORDER QUANTITY

7.1 If specified in the Statement of Work or otherwise notified to the Buyer by the Seller, the Buyer shall ensure that each Order it submits to the Seller is for the minimum order quantity of Goods specified in the Statement of Work or notified to the Buyer (as applicable). The Seller shall not be obliged to accept an Order from the Buyer which is not for the minimum order quantity of Goods specified in the Statement of Work or notified to the Buyer (as applicable).

## 8 DESPATCH & DELIVERY

8.1 If the Seller has agreed in the Statement of Work or otherwise to deliver the Goods to the Buyer, the Seller shall deliver the Goods to the Buyer to the delivery location(s) set out in the Statement of Work or, where a Statement of Work has not been issued by the Seller, to the delivery location set out in the Order or to such other delivery location as the parties may agree (the **"Delivery Location"**).

8.2 If the Seller has not agreed to deliver the Goods to the Buyer in the Statement of Work or otherwise, the Seller shall make the Goods available for collection at the Seller's premises details of which shall be notified to the Buyer.

8.3 Any time or date quoted by the Seller for the collection, despatch or delivery of the Goods (as applicable) including any times or dates specified in the Statement of Work is approximate only and the Seller will not be liable for a failure to make the Goods available for collection or a failure to despatch or deliver the Goods (as applicable) within the quoted time nor shall any such failure entitle the Buyer to rescind or repudiate the Contract or any other contract between the Seller and the Buyer if such failure or delay is caused by: a Force Majeure Event; or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

8.4 Subject to condition 8.3, if the Seller fails to despatch or deliver Goods or have Goods ready for collection (as applicable) by the quoted date, its liability shall be limited to the costs and expenses incurred by the Buyer in

obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

8.5 The Seller reserves the right to make despatches or deliveries by instalments which may be invoiced separately. The period in which delivery or despatch is made and the quantity of Goods despatched or delivered in each instalment, shall be at the Seller's discretion. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

8.6 Notwithstanding the terms of the Statement of Work or any express agreement as to the date of delivery or collection (as applicable), the Seller shall be entitled to postpone or cancel despatch or delivery or collection in whole or part when the Seller is delayed in or prevented from obtaining, despatching, delivering or arranging collection of the Goods by a Force Majeure Event.

8.7 The Buyer may cancel any Order that has not been delivered or made available for collection within 90 days from the date of that Order.

## **9 BUYER'S OBLIGATIONS AND CLAIMS ON DELIVERY**

9.1 The Buyer or Nominated Receiving Agent will:

9.1.1 examine the Goods carefully on receipt;

9.1.2 notify the Seller (and any carrier for the Seller (if required)) in writing within 7 days of the date of receipt of the Goods: of any error in quantity or weight or description of Goods; if the Goods have been mixed with other goods which do not form part of the Order; or of any damage to the Goods revealed or apparent on a visual examination of the Goods and not caused since delivery was taken or the Goods were collected (as applicable).

9.2 Failure to make a notification in accordance with condition 9.1.2 shall constitute a waiver by the Buyer of all claims based on or relating to facts which such examination should have revealed.

9.3 The Seller will not be obliged to accept the return of, and/or shall not be obliged to provide a refund in respect of, any Goods which the Buyer has incorrectly ordered pursuant to this Contract.

## **10 RISK**

10.1 The risk of loss or damage to the Goods shall pass to the Buyer when the Goods are made available at the Seller's premises for collection by or on behalf of the Buyer or where the Seller is delivering the Goods, on the arrival of the Goods at the Delivery Location.

## **11 TITLE TO GOODS**

11.1 Notwithstanding receipt of the Goods by the Buyer and the passing of risk in the Goods to the Buyer, or any other provision of these Conditions, full legal and beneficial ownership of the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds in full of the price of the Goods.

11.2 Until such time as full legal and beneficial ownership of the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary's agent and bailee and shall keep the goods separate from those of the Buyer and third parties and properly stored, protected, insured and identified as the Seller's property but the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business.

11.3 Until such time as full and beneficial ownership of the Goods passes to the Buyer, (and provided the Goods have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver the Goods to the Seller and, if the Buyer fails to do so, forthwith to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

11.4 Even if full legal and beneficial ownership of the Goods has not passed to the Buyer, the Seller shall be entitled to sue for the price of those Goods once payment has become overdue.

## **12 WARRANTIES AND LIABILITY**

12.1 The Seller warrants that on the delivery or collection date (as applicable) the Goods supplied by it conform in all material respects with their specification and are free from material defects caused by reason of faulty materials or workmanship. Subject as aforesaid all other warranties and conditions whether express or implied by statute, common law, European law or trade custom (in any case whether arising in contract, tort or otherwise) are hereby excluded so far as the law permits.

12.2 The Buyer or Nominated Receiving Agent must examine the Goods carefully on receipt and, subject to condition 12.3, if:

12.2.1 the Buyer or Nominated Receiving Agent gives notice in writing to the Seller within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in condition 12.1;

12.2.2 the Seller is given a reasonable opportunity of examining such Goods; and

12.2.3 the Buyer or Nominated Receiving Agent (if asked to do so by the Seller) returns such Goods to the Seller's premises at the Buyer's cost,

the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

12.3 The Seller shall not be liable for the Goods' failure to comply with the warranty set out in condition 12.1 in any of the following events:

12.3.1 the Buyer or its Nominated Receiving Agent makes any further use of such Goods after giving notice in accordance with condition 12.2.1;

12.3.2 the defect arises because the Buyer or its Nominated Receiving Agent failed to follow the Seller's oral or written instructions as to the storage and use of the Goods or (if there are none) good trade practice regarding the same;

12.3.3 the Buyer or its Nominated Receiving Agent alters such Goods without the written consent of the Seller;

12.3.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

12.3.5 the Goods differ from their specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

12.4 Except as provided in this condition 12, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in condition 12.1.

12.5 These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

### **13 LIMITATION OF LIABILITY**

13.1 Nothing in these Conditions shall limit or exclude the Seller's liability for:

13.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

13.1.2 fraud or fraudulent misrepresentation;

13.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;

13.1.4 defective products under the Consumer Protection Act 1987; or

13.1.5 any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.

13.2 Subject to condition 13.1:

13.2.1 the Seller shall not be liable to the Buyer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of or damage to goodwill, loss of use or corruption of software, data or information or any indirect or consequential loss;

13.2.2 the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 125 % of the price of the Goods.

### **14 TERMINATION**

14.1 Without limiting its other rights or remedies, the Seller may terminate this Contract with immediate effect by giving written notice to the Buyer if:

14.1.1 the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of the Buyer being notified in writing to do so; or

14.1.2 the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

14.1.3 the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

14.1.4 the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

14.2 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment.

14.3 On termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest.

14.4 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

14.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

## **15 GOVERNING LAW AND JURISDICTION**

15.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales to settle any such dispute or claim.

## **16 GENERAL**

16.1 Neither party shall disclose without the other party's prior written consent any confidential information of the other party they may receive in connection with the Contract save as required in legal proceedings or to its employees, professional advisers or contractors on a need-to-know-basis. A disclosure by an employee, professional adviser or contractor shall be deemed to be a disclosure by the party who disclosed the information to them.

16.2 The Contract is personal to the Buyer and the Buyer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without prior written consent of the Seller (such consent not to be unreasonably conditioned, withheld or delayed).

16.3 The Seller shall be permitted to assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract by providing notice in writing to the Buyer.

16.4 Any notice, approval, consent, request, instruction, notification or document to be given or made under the Contract shall be in writing and may be delivered by hand to the relevant party or sent by first class post, recorded delivery letter, or registered airmail to the registered office for that party.

16.5 The Contract constitutes the entire arrangement and understanding between the parties and supersedes and extinguishes all prior agreements, negotiations and discussions relating to the subject matter of the Contract. Each party acknowledges that in entering into and performing the Contract it does not do so on the basis of, and does not rely on any statement or representation (whether innocent or negligent, but excluding fraudulent representations) or warranty or understanding other than as expressly contained in the Contract at the date hereof or subsequently included within this Agreement pursuant to condition 16.6.

16.6 Any variation to the Contract must be in writing and signed on behalf of both parties.

16.7 If a court decides that any part of the Contract cannot be enforced, that particular part of the Contract will not apply, but the rest of the Contract will.

16.8 A waiver by a party of a breach of any provision shall not be deemed a continuing waiver or a waiver of any subsequent breach of the same or any other provisions. Failure or delay in exercising any right under the Contract shall not prevent the exercise of that or any other right.

16.9 No person other than a party to the Contract shall have any rights to enforce any terms of the Contract.

16.10 Nothing in the Contract shall create (or be deemed to create) a partnership or agency between the parties.



16.11 Where the Buyer comprises more than one person, each person who places an Order with the Seller pursuant to this Contract shall be jointly and severally liable to the Seller in connection with any obligations and/or liability which arises under this Contract in connection with the Order placed by that person.

**17 ADDITIONAL EXPORT TERMS**

17.1 Where the Goods are supplied for export from the United Kingdom, this condition 17 shall (subject to the Statement of Work and any special terms agreed in writing between the Buyer and Seller) apply in addition to the remainder of these Conditions.

17.2 The Buyer shall be responsible for complying with any legislation or regulations governing:

17.2.1 the importation of the Goods in to the country or destination and for the payment of any duties on them;

17.2.2 resale of the Goods or any of them in the country of destination or any other place where the Goods or any of them are resold by or on behalf of the Buyer.

17.3 The Seller shall accept no liability for any claim which is made after shipment in respect of any Goods damaged during transit except where such damage is caused as a result of the Seller's negligence, breach of contract or breach of statutory duty.

**I the undersigned do hereby declare that I have read and accept these Terms & Conditions of sale provided to me by DeeLit Group.**

**I also declare that I am an appointed person within the company to be legally eligible to sign these Terms & Conditions.**

**Printed Name of Applicant** .....

**Signature of Applicant** .....

**Date and Place** .....

**Company Name** .....

**Company Position** .....