

TERMS AND CONDITIONS OF PURCHASE

1 DEFINITIONS

- 1.1 "Buyer" means FlexEJ Limited of Factory 2, Morgan Rushworth Industrial Estate, Bromley Street, Lye, DY9 8HY;
- 1.2 "Contract" means the contract between the Buyer and the Seller for the purchase and sale of Goods incorporating these Terms and Conditions;
- 1.3 "Delivery Date" means the date specified by the Buyer when the goods are to be delivered;
- 1.4 "Goods" means the articles that the Buyer agrees to buy from the Seller;
- 1.5 "Order" means the Buyer's purchase order for the Goods;
- 1.6 "Price" means the price for the Goods stated on the Order, inclusive of VAT (if applicable) or any analogous sales tax, carriage, freight, postage or insurance costs;
- 1.7 "Seller" means the person or organisation to whom an Order is sent by the Buyer;
- 1.8 "Terms and Conditions" means the terms and conditions of purchase set out in this document and any special terms and conditions agreed in writing by the Purchaser;
- 1.9 It is expressly understood that neither the Buyer nor the Seller are consumers, as defined by the Unfair Contract Terms Act 1977;
- 1.10 Any reference to a statutory provision shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time;

2 CONDITIONS

- 2.1 These Terms and Conditions shall apply to all contracts for the purchase of Goods by the Buyer from the Seller to the exclusion of all other terms and conditions including any terms and conditions which the Seller may purport to apply under any sales offer or similar document.
- 2.2 Despatch or delivery of the Goods by the Seller to the Buyer shall be deemed conclusive evidence of the Seller's acceptance of these Terms and Conditions.
- 2.3 Any variation to these Terms and Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Buyer.

3 PRICE AND PAYMENT

- 3.1 A valid VAT invoice in respect of the Price shall be produced to the Buyer by the Seller.
- 3.2 The Buyer shall pay the price at the end of the month following date of receipt of the invoice and complete documentation or acceptance of the Goods by the Buyer, if later.

- 3.3 The Seller shall not be entitled to vary the Price without the prior written consent of the Buyer.

4 WARRANTY

- 4.1 The Seller warrants to the Buyer that the Goods are of the quantity, description and quality as set out in the Order.
- 4.2 The Seller warrants that as from the date of delivery for a period of 18 months the Goods are free from any defects.
- 4.3 Where there is a breach of the warranty contained in this Clause 4 by the Seller the Buyer shall inform the Seller who must within 14 days either repair or replace the defective Goods at the Seller's expense or repay the Price or part of the Price relating to the defect to the Buyer.
- 4.4 Where the Goods are repaired or replaced in terms of Clause 4.3 the Seller warrants those repaired or replaced Goods for a further period of 36 months from the date of repair or replacement.
- 4.5 The Seller shall ensure that all the Goods shall be manufactured, stored, tested and packed in accordance with all British and EC statutory and other legal requirements applicable to them and that all the Goods are of merchantable quality and fit for the purpose for which the Buyer intends to use such Goods.

5 DELIVERY OF THE GOODS

- 5.1 Delivery of the Goods shall be made to the Buyer's address on the date specified in the Order during normal business hours, unless previously arranged otherwise. Time shall be of the essence in this respect and the Buyer is entitled to cancel, without notice, the whole or any part of the Order if this Clause is not complied with by the Seller.
- 5.2 Where the Buyer cancels the whole or part of the Order in accordance with Clause 5.1:
- 5.2.1 all sums payable by the Buyer in relation to the whole or part of the Order cancelled shall cease to become payable;
- 5.2.2 all sums paid by the Buyer in relation to the whole or part of the Order cancelled shall be repaid by the Seller;
- 5.2.3 the Buyer shall be entitled to recover damages from the Seller for any loss caused as a result of the Seller's failure to deliver the Goods and/or as a result of the cancellation of the whole or part of the Order.

6 REMEDIES OF BUYER

- 6.1 The Buyer shall inspect the Goods upon delivery in accordance with this Clause 6.

6.2 Where Goods are damaged the Buyer shall notify the Seller. The Buyer may reject the damaged Goods and the following provisions shall apply:

- 6.2.1 the Seller shall collect the damaged Goods from the Buyer at the Seller's expense;
- 6.2.2 during the period between delivery of the Goods and collection by the Seller, the Buyer shall not be liable for any loss or further damage caused to the damaged Goods;
- 6.2.3 all sums payable by the Buyer in relation to the damaged Goods shall cease to become payable;
- 6.2.4 all sums paid by the Buyer in relation to the damaged Goods shall be repaid by the Seller;
- 6.2.5 the Buyer shall be entitled to claim damages from the Seller for any losses caused to the Buyer as a result of the Goods being damaged.

6.3 Where there are shortages in the Order the Buyer shall notify the Seller and the following provisions shall apply:

- 6.3.1 all sums payable by the Buyer in relation to the missing Goods shall cease to become payable;
- 6.3.2 all sums paid by the Buyer in relation to the missing Goods shall be repaid by the Seller immediately;
- 6.3.3 the Buyer shall be entitled to claim damages from the Seller for any losses caused to the Buyer as a result of the shortages.

6.4 If the Buyer so requests, the Seller shall immediately replace damaged Goods or supply Goods which are missing at the Seller's expense and/or the Buyer shall be entitled to cancel, without notice, the whole or any unexecuted part of the Order and the rights referred to in Clause 5.2. shall apply.

6.5 Where there is an excess of Goods in relation to the Order the Buyer may reject the excess Goods by notice in writing to the Seller and the following provisions shall apply:

- 6.5.1 the Seller shall collect the excess Goods from the Buyer at the Seller's expense;
- 6.5.2 during the period between delivery of the Goods and collection by the Seller, the Buyer shall not be liable for any loss or damage caused to the excess Goods;

6.5.3 no sum shall be due to the Seller for the excess Goods and in the event that sums are paid to the Seller for the excess Goods, the Seller shall repay such sums to the Buyer immediately.

6.6 The Buyer may accept excess Goods by notifying the Seller of such acceptance and the price of the excess Goods shall be payable by the Buyer in accordance with Clause 3.

6.7 The Seller shall repair or replace free of charge, Goods damaged or lost in transit upon receiving notice to that effect from the Buyer.

7 TITLE AND RISK

Title and risk in the Goods shall pass to the Buyer upon delivery of the Goods in terms of Clause 5. The Buyer shall still be entitled to reject the Goods in terms of Clause 6.

8 INDEMNITY

The Seller shall indemnify the Buyer against all claims, loss, liability or expenses arising or incurred by the Buyer either at common law or by statute in respect of personal injury to or the death of any person or in respect of any loss or destruction of or damage to the property due to any work executed by the Seller in relation to the Goods or due to any defect in the Goods.

9 FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

10 SEVERANCE

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid illegal or unenforceable provision eliminated.

11 GOVERNING LAW AND JURISDICTION

These Terms and Conditions shall be governed by and construed in accordance with the Law of England and Wales and the parties hereby submit to the exclusive jurisdiction of the Courts of England and Wales.