

CONDITIONS OF SALE

1. Formation of contracts

(a) Each contract for the sale of goods by KRONOSPAN LIMITED ("the Company") shall be deemed to incorporate these Conditions. No contract and no variation of or addition to these Conditions or to any contract shall be effective without the Company's agreement in writing. These Conditions override and take the place of any other terms or conditions emanating from or referred to by the Purchaser.

(b) These Conditions and each contract and any issues, disputes or claims arising out of or in connection with it (whether contractual or non-contractual in nature such as claims in tort, from breach of statute or regulation or otherwise) shall be governed by and construed in accordance with the laws of England. Neither the Uniform Laws on International Sales nor the Convention on Contracts for the International Sale of Goods shall apply to any contract. All disputes or claims arising out of or in relation to this Contract shall be subject to the exclusive jurisdiction of the English courts to which the Party irrevocably submit.

(c) Each contract is made subject to supplies of the goods being available to the Company and remaining unsold.

(d) Where this Contract refers to a delivery term defined in Incoterms® 2010 then in the event of any conflict between this Contract and the provisions of Incoterms® 2010 this Contract shall take precedence.

2. Price

(a) Unless otherwise expressly stated in writing by the Company contracts are concluded on the basis set out in (b) to (d) below.

(b) The Company is entitled without prior notice to adjust the price stated to take account of any change in specification made at the request of the Purchaser or any alteration before the date of delivery in the cost to the Company of labour, materials, packaging, labelling, loading, unloading, carriage, freight, insurance, sub-contracted services or import or export duties or tariffs, value added tax or similar taxes or transport, or any other relevant matters which directly affect the cost to the Company of supplying the goods.

(c) The price stated is the net price of the goods (i.e. after deduction of any discounts) for delivery in accordance with the contract (which shall be Ex Works (Chirk) Incoterms® 2010) unless otherwise agreed on the Company's order acknowledgement.

(d) The price stated is exclusive of value added tax ("VAT") and any other taxes, duties and impositions which if applicable shall be paid by the Purchaser in addition. Without limitation, if the goods are to move to an EU member state other than the UK, the Company shall charge and the Purchaser shall pay on demand VAT in relation to the goods unless there is supplied to the Company evidence satisfactory to HM Customs & Excise to establish that the supply of the goods is zero rated for UK VAT purposes or otherwise not subject to VAT. The Purchaser shall in any event provide to the Company on demand such information as the Company may reasonably require to enable it to comply with its obligations under UK VAT legislation.

3. Payment

(a) Unless otherwise expressly stated prices are due and payable in United Kingdom pounds sterling 28 days following the date of the invoice.

(b) If the Purchaser shall fail to make payment in full in accordance with Condition 3(a) above then (without prejudice to any other rights of the Company) the Purchaser shall, without any need for the Company to give notice, become liable to pay to the Company interest on the amount for the time being unpaid at a rate which is 0.05 per cent per day from the date of due payment until the date of actual payment as well after as before any judgment.

(c) Where carriage, packing or other charges are stated separately from the price they will nevertheless be payable by the Purchaser at the same time as if they formed part of the price and shall be treated as such.

(d) Time of payment is the essence of every contract entered into upon and subject to these Conditions.

(e) The Purchaser shall make all payments due under the Contract without any deduction whether by way of set-off, withholding, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Purchaser.

(f) Any agreed credit limit given to the Purchaser is conditional upon the Company's credit insurance. If the Company's credit limit granted by the insurer is reduced then the agreed credit limit given to the Purchaser will automatically reflect this change. The Company shall notify the Purchaser of any such change as soon as reasonably practicable. The Company reserves the right to refuse to accept orders, or cancel or suspend any orders not fulfilled where the Purchaser exceeds its credit limit.

4. Despatch and delivery

(a) Whilst the Company will use all reasonable endeavours to keep any stated despatch or delivery date, it will not be liable (in contract; negligence or otherwise) for any loss or damage resulting from delay howsoever the same shall have been caused.

(b) Except so far as otherwise required by any CIF, FOB or similar terms which may be agreed by the parties in writing (but subject to sections 33 and 37 of the Sale of Goods Act 1979), goods will be delivered and risk shall pass in accordance with FCA (Chirk) Incoterms® 2010 (save that the Company shall have no obligation to clear the goods for export). The Company need not arrange for the goods to be insured before or after delivery.

(c) The Purchaser shall keep the goods fully insured in their full replacement value against all risks prudently insured against at least throughout the period between the risk therein passing to the Purchaser and the property therein passing to the Purchaser. Until the full price has been paid, the Purchaser shall hold on trust for the Company the policy and proceeds of insurance to the extent of the unpaid price.

(d) Any goods to be sent to the Purchaser may be sent by such method of carriage as the Company may choose. If the Company arranges for the carriage and/or insurance of the goods in transit, it shall be deemed to do so as agent of the Purchaser so that any carrier is the Purchaser's agent but section 32(2) and (3) of the Sale of Goods Act 1979 shall not apply.

(e) Before despatching any goods the Company will send to the Purchaser an Order Acknowledgement stating the expected date of delivery. The Purchaser must: (i) examine the goods at the time of delivery and note any shortage or damage on the carrier's copy of the delivery note; (ii) give written notice to the Company of the clausured delivery note or failure to otherwise conform to the contract within four days after delivery, or in the case of non-delivery within 14 days after the expected date of delivery as stated on the Order Acknowledgement, and (iii) give the Company, any carrier and their agents a reasonable opportunity to inspect the goods as delivered. If the Purchaser does not do so, it will be deemed to have accepted the goods. In no event may the Purchaser reject goods for short delivery, or reject any delivery of goods the value of which is less than £100. This condition 4(e) is without prejudice to Condition 7.

(f) If the buyer fails to take delivery of any goods as agreed then the Company may, at its own discretion, store the goods and take such reasonable steps as are necessary to ensure their safe-keeping pending actual delivery and the buyer shall indemnify the Company as to all the costs incurred by the Company in so doing. Any such action by the Company shall be without prejudice to its rights to terminate the contract at any time pursuant to Condition 11.

(g) If the Purchaser fails to collect or (as the case may be) take delivery of any goods ordered when they are ready, then the Company reserves the right after four weeks to deliver them to the Purchaser at the Purchaser's risk.

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(h) When non stock items are produced at the Purchaser's request, any B quality boards produced shall be accepted by the Purchaser in addition to the order quantity specified up to a maximum of 5% of the order quantity at a price agreed at the time of placing the original order.

(i) The Company may deliver the goods by instalments, each instalment to be deemed to be the subject of a separate contract. No failure or defect in delivery in respect of any contract or instalment will entitle the Purchaser to any remedies in relation to any other contract or instalment.

5. Ownership of Goods

(a) Notwithstanding delivery of the goods or any document representing them, the Company reserves the right to disposal of each item, and full legal, beneficial and equitable title in the goods shall remain with the Company (and the property therein shall not pass to the Purchaser), until the earlier of (i) receipt by the Company of payment in full for such item and all other goods, whether or not of the same type, supplied by the Company to the Purchaser and default interest and all other moneys on any account whatsoever owed by the Purchaser to the Company; and (ii) sale by the Purchaser of such item to an independent third party on arm's length terms in the ordinary course of business (which the Purchaser must effect as principal and not as agent for the Company).

(b) Pending the passing of property, the Purchaser shall hold the Goods on a fiduciary basis as bailee of the goods for the Company and must not dispose of, charge or encumber the goods or any interest therein or purport to do so (except under (a)(ii) above), must retain possession of them in good order and condition and free from any lien, distress, execution or other legal process, must (unless otherwise agreed by the Company in writing) store them separately or mark them so that they may be readily identified as the Company's property and must inform the Company of their whereabouts on request and shall deal (and in the absence of proof to the contrary shall be deemed to deal) with them and other goods of the same type in the order in which they are delivered.

(c) 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 Purchaser and/or any other location where any of the Goods are situated at any time without prior notice.

(d) If, before paying for them, the Purchaser on-sells any of the goods, the Purchaser must: (i) account to the Company for the proceeds of on-sale to the extent that the Company has not received payment of the price; and (ii) pending payment hold them on trust for the Company.

6. Specifications, descriptions and drawings

(a) Subject to 7 below, all specifications, descriptions and drawings of goods are approximate only being intended to serve merely as a guide and accordingly the Purchaser shall not rely on them and the Company shall not be liable for their accuracy.

(b) All drawings prepared by the Company and the copyright therein shall remain the property of the Company and shall be returned to it by the Purchaser on demand. All such drawings shall be treated as confidential and shall not be copied or reproduced and disclosed to any third party without the prior written consent of the Company.

7. Warranties, limitations and exclusions

(a) The Company warrants that, if: (i) it is shown to its reasonable satisfaction that any goods supplied by it are, when delivered, damaged or defective as to material or workmanship or compliance with any specification expressly agreed by it in writing to be binding; (ii) the value of the damaged or defective goods exceeds £100; (iii) the defect is not caused wholly or partly by deterioration necessarily incident to the course of transit or, while the goods are at the Purchaser's risk, by accident, willful default, improper storage or use or failure to follow instructions; and (iv) within a reasonable period after the Purchaser becomes aware of the defect (and in any event within two months after the date of delivery) the Purchaser notifies the Company of the defect and makes the goods available for inspection and testing on behalf of the Company or (if the Company so requires) returns them to the Company's premises, carriage paid on the basis that the Company will reimburse the cost if the Purchaser's complaint is justified, then, at its discretion, the Company will repair or replace the goods or waive or refund or issue a credit note against all or an appropriate part of the price.

(b) The Company excludes all liability arising out of or relating to laminated goods used outside Europe Economic Area unless Company has been made aware in writing of the intended use of the goods outside Europe Economic Area and has confirmed in writing the suitability of the goods for such intended use.

(c) The Parties acknowledge that this Contract has not been entered into wholly or partly in reliance on, nor has either party been given any warranties, conditions, representations, guarantees, stipulations, undertakings, collateral contracts and other obligations, whatsoever which might otherwise apply in relation to the goods other than as expressly set out in this Contract. Each party agrees that the only rights and remedies available to it arising out of or in connection with any warranties, statements, promises or representations will be for breach of contract and irrevocably and unconditionally waives any right it may have to any claim, rights or remedies including any right to rescind this Contract which it might otherwise have had in relation to them.

(d) All warranties, conditions and other terms not expressly set out in this Contract whether implied by statute or otherwise are excluded to the extent permitted by law.

(e) Subject to Clause 7(g) the Company is not liable, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, for any loss of profit, loss of anticipated savings, loss of use, loss of revenue, economic loss, (in each case whether direct or indirect), or for any indirect, special or consequential loss or damage.

(f) The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise in connection with any order is limited to 125% of the price paid under that order.

(g) Nothing in these Conditions will exclude, restrict or limit either party's liability for death or personal injury caused by negligence or for fraud or fraud misrepresentation.

8. Severance

Any complete or partial invalidity or unenforceability of a provision in these Conditions or any contract shall not affect its validity or enforceability for any other purpose or the remaining provisions; but it shall be deemed to be severed for that purpose subject to such consequential modification as may be necessary as a result.

9. Force majeure

The Company shall be entitled to delay deliveries or reduce quantities under, or cancel or rescind, any contract without liability for loss or damage resulting therefrom if the performance of its obligations under the contract is in any way adversely affected by any war, strike, lock-out, sit-in, trade dispute, fire, flood, accident to plant or machinery, shortage of any material or labour or any other cause without limitation which is beyond the Company's control or which it would not be reasonable to expect the Company to control.

10. Assignment

The Purchaser may not assign, charge or otherwise dispose of any contract or any rights thereunder in whole or in part without the Company's prior written consent. Any attempt to do so will be void. The Purchaser shall if requested consent to a novation of any contract with the Company to any person to whom the Company may dispose all or part of its business.

11. Events of default, termination and repossession.

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(a) The Company may by written notice terminate the Contract if any of the following events occur: (i) the Purchaser or any of its affiliates fails to pay promptly any amount due and payable under, or otherwise breaches, that or any other contract with the Company, or (ii) the Purchaser or any of its affiliates fails upon demand to make immediate payment in cleared funds of the price for the goods and all other amounts payable under that or any other contract with the Company, after: (1) the Purchaser suspends, or threatens to suspend payment of its debts (whether principal or interest) or is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; (2) any steps are taken with a view to the Purchaser or any of its affiliates or any of its or their assets becoming subject to any form of winding up, administration, receivership, insolvency proceedings, arrangements with creditors generally, repossession or enforcement of security or legal process; (3) the Purchaser has a receiver or administrative receiver appointed over all or any part of its assets or a person becomes entitled to appoint a receiver or administrative receiver over such asset; or (4) the Company certifies to the Purchaser that it otherwise has reasonable grounds for believing that the Purchaser or any of its affiliates is insolvent or that the Company's right to receive payment, or its interest in the goods, under that or any other such contract is or will be in jeopardy. The Purchaser's affiliates include its subsidiaries, its holding companies and the subsidiaries of its holding companies, as defined in the Companies Act 2006.

(b) If any of the events set out at (a) above occur then, the Company may at any time (at its discretion and without prejudice to its other rights (including any right to termination) and whether or not it delivers any further goods or accepts any further payments) by written notice to the Purchaser do any one or more of the following: (i) suspend any deliveries to be made under, or terminate, cancel or rescind, the contract and any other contracts with the Purchaser; (ii) revoke any express or implied authority to sell, use or consume any goods the property in which remains with the Company and require the Purchaser to deliver them immediately to the Company (and the Purchaser shall do so, failing which the Company may enter the premises where they are without liability for any resulting damage, against the consequences of which the Purchaser shall indemnify the Company) and resell them or transfer the property in them to the Purchaser; (iii) declare (whereupon there shall forthwith become) immediately due and payable any indebtedness of the Purchaser to the Company on any account whatsoever; and (iv) set off any indebtedness of the Company to the Purchaser against any indebtedness of the Purchaser to the Company, in each case on any account whatsoever.

12. Instructions, health and safety and environment

The Purchaser shall comply (and ensure that its employees and agents comply) strictly with all instructions, warnings, data sheets and other material (including without limitation those regarding health and safety and environmental concerns) supplied by the Company with, or in connection with, the goods and shall, when supplying the goods, ensure that they are accompanied by the same.

13. Intellectual property

(a) The Purchaser shall have no rights to any intellectual property owned by or licensed to the Company other than (if applicable) to resell the goods under any trade mark applied by the Company. The Purchaser shall not, without the Company's prior written consent, allow any trade mark or any instruction or warning applied to the goods to be obliterated or obscured.

(b) All know-how, samples and other items relating to the goods or their development or creation shall remain the Company's property, shall be treated as confidential and shall not be copied, reproduced or disclosed to any person without the Company's prior written consent.

(c) The Purchaser shall forthwith notify the Company after it becomes aware of any allegations, or information suggesting, that the goods or their use or sale infringes any third party intellectual property rights. The Company shall not be liable to the Purchaser under any export or other contract for the consequences of any such infringement, except to the extent that the Company has actual knowledge when the goods are delivered to the Purchaser that they of their intended use or sale by the Purchaser as disclosed to the Company would infringe such rights. The Company may conduct any related dispute and the Purchaser shall assist the Company. The terms implied by section 12(1) and 12(2) of the Sale of Goods Act 1979 so far as they relate to intellectual property rights, are qualified accordingly and to that extent the Company will transfer only such title as it has.

14. Indemnity

The Purchaser shall indemnify and hold harmless the Company from and against all liabilities, losses (including economic losses, loss of profit and loss of revenue), damages, costs, charges, expenses (including without limitation legal fees and expenses on a full indemnity basis), actions, proceedings, claims and demands incurred by or brought against the Company (whether direct or indirect) and arising directly or indirectly out of or in connection with any breach of any of the Purchaser's obligations under any contract with the Company.

15. Confidentiality

All information and advice, written or oral, which may be supplied by the Company to the Purchaser and is, or is stated to be, or should reasonably be treated as, secret or confidential, is for the Purchaser's sole use and may not be disclosed or made available to any third party (save to the extent it is in the public domain otherwise than by breach of this Condition or disclosure is required by law or regulatory authority) without the company's prior written consent.

16. Notices

(a) Any notice under these conditions or any contract to the Company shall be in writing and given by post or hand delivery to it at Chirk, Wrexham, LL14 5NT or by fax to number (01691) 772316 in each case for the attention of the Company Secretary or to such other address or fax number or for the attention of such other person as the Company may notify to the Purchaser.

(b) Any notice under these Conditions or any contract to the Purchaser shall be in writing and given by post or hand delivery or fax to any address or fax number from which the Company has received communications from the Purchaser.

17. Miscellaneous

(a) This Contract contains the entire agreement between the parties in relation to its subject matter and supersedes any prior arrangement, understanding written or oral agreements between the parties in relation to such subject matter.

(b) The Company's rights shall not be prejudiced or restricted by any concession, indulgence or forbearance extended to the Purchaser.

(c) No waiver by the Company of any breach shall operate as a waiver of any other or subsequent breach.

(d) The Company's rights under these Conditions are in addition to any other rights which the Company may have under the general law or otherwise.

(e) A person who is not a party to this Agreement has no rights (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any provision of this Agreement.

(f) If the Purchaser comprises two or more persons, their obligations are joint and several.

18. Headings

The headings used in these Conditions are for convenience only and shall not affect the construction thereof.