

## Multivac UK Ltd Conditions for the Sale of Goods (Materials)

### 1. DEFINITIONS AND INTERPRETATION

1.1 In these conditions of sale the following words have the following meanings.

- (a) "binding order" has the meaning given to it in clause 2.4 of these conditions.
- (b) "business day" a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- (c) "call off stock" means goods you have ordered from us and which you request us to deliver to you in instalments over an agreed period.
- (d) "conditions" means these Conditions for the sale of Goods (Materials).
- (e) "contract" means the contract between you and us for the sale of the goods which comprises the binding order and incorporates these conditions.
- (f) "goods" means the materials supplied under the contract.
- (g) "goods specification" means the technical specification of the goods.
- (h) "intellectual property" means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- (i) "manufacturer" means the manufacturer of the goods.
- (j) "order" means your purchase order form, or your written acceptance of our quotation
- (k) "price" the price payable by you to us for the goods, as set out in the contract and as varied in accordance with clause 3.2 of these conditions.
- (l) "us" "we" "our" means Multivac UK Ltd (which shall include our employees and sub-contractors).
- (m) "you" "your" means the person who accepts our quotation or whose order is accepted by us.
- (n) "intellectual property" means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- (o) "warranty start date" means the date of delivery of the goods.
- (p) "warranty period" the period of twelve (12) months commencing on the warranty start date.

1.2 The headings used in these conditions are for convenience only and shall not affect their interpretation.

1.3 If there is any conflict between these conditions and a binding order, the terms of the binding order shall prevail.

### 2. THE CONTRACT

2.1 Subject to these conditions, we shall supply and you shall purchase such quantities of goods as are the subject of a contract.

2.2 A contract shall come into existence on the date an order becomes binding on you and us in accordance with clause 2.4 of these conditions. For the avoidance of doubt, any verbal agreements made between you and one or more of our members of staff or representatives in relation to the goods shall not be binding upon you or us unless you and we subsequently enter into a binding order in relation to those services. All contracts shall be deemed to incorporate these conditions. Each binding order forms a separate contract between the parties.

2.3 These conditions shall apply to the provision of the goods and shall override and take the place of any other terms and conditions in any order or other document or communication issued by you in concluding the contract with us.

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- 2.4 An order shall be binding when it is accepted or deemed to be accepted by each of you and us in accordance with this clause 2.4 and is referred to in these conditions as a "binding order". An order shall be accepted or deemed to be accepted on the earlier of: (a) the date we confirm we accept the order; or (b) the date we commence fulfilling the order. No quotation issued by us shall constitute an offer which is capable of acceptance by you.
- 2.5 Each quotation issued by us is valid for a period of [28 days] after the date the quotation is issued by us, or such other date set out in the quotation.
- 2.6 You may not cancel or withdraw a binding order without our written permission and your agreement to meet any costs incurred by us up to the date of termination (including any costs incurred by us in anticipated performance of the binding order). Without prejudice to any other of our rights at law or under the contract, cancellation of a binding order by you without our written permission will entitle us to repudiate the contract and retain any monies paid in advance.
- 2.7 We may cancel or withdraw a binding order without liability or obligation to you if we are not able to source the goods the subject of the binding order from the manufacturer.
- 2.8 Subject to clause 2.7 and the other provisions of these conditions, we shall sell and you shall purchase the goods in accordance with each contract.

### 3. PRICE

- 3.1 You agree to pay us the price in accordance with clause 4.
- 3.2 Unless otherwise expressly stated in writing by us the price stated in the contract is subject to variation to take account of changes in manufacturer's prices and other costs incurred by us in fulfilling the contract and, where relevant, changes in rates of exchange, freight and insurance charges and import and export duties and tariffs, in each case between the date the binding order comes into existence and the date of delivery. We will give you written notice of any increase in price.
- 3.3 No deduction from or delay in payment of the price is permitted, including (without limitation) in respect of set-offs or counter-claims, unless previously agreed by us in writing.
- 3.4 Unless otherwise stated, but subject to clause 3.5, the price is inclusive of delivery costs, and customs duties, but excludes VAT.
- 3.5 Delivery charges will be payable in addition to the price where we agree to deliver the goods earlier than our normal delivery times.

### 4. PAYMENT

- 4.1 Unless otherwise agreed in writing and subject to clause 4.2, we will invoice you for the price on the date we deliver the goods (including any call-off stock) in accordance with the contract. Payment of each invoice issued by us shall be due within 30 days from the invoice date.
- 4.2 We may issue you with an invoice for all call off stock ordered by you but not delivered more than 12 weeks from the date of order.
- 4.3 Time for payment shall be of the essence and if any sum owed by you to us is overdue then, without limiting our other rights and remedies under these conditions or at law, we shall be entitled to:
- (a) interest and compensation as provided for under the Late Payment of Commercial Debts (Interest) Act 1998;
  - (b) suspend delivery of any goods the subject of a contract; and/or
  - (c) suspend performance of any other contract agreed between you and us under these conditions or otherwise;
- in each case, until such time as all sums owing by you to us are received by us in cash or cleared funds.

### 5. DELIVERY AND PASSING OF PROPERTY AND RISK

- 5.1 Any period or times stated for delivery of the goods are to be regarded as estimates only. Whilst we will do our best to keep to such periods and times, no guarantee is given and we accept no responsibility or liability for any loss or damage suffered by you or any third party resulting from delay. You do not have any right to cancel a contract, refuse to accept delivery of goods or to pay the price for those goods as a result of any delay.
- 5.2 We will deliver goods to the agreed delivery location, as set out in the contract. Delivery shall take place when we place the goods at your disposal at the agreed delivery location.

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- 5.3 Ownership of the goods shall not pass to you until we have received the price in full and in cash or cleared funds in accordance with these conditions or, if sooner, the date the goods are irrevocably incorporated into another product.
- 5.4 The risk in the goods shall pass to you on delivery.
- 5.5 Until title to the goods has passed to you, you shall:
- (a) store the goods separately from all other goods held by you so that they remain readily identifiable as our property;
  - (b) not remove, deface or obscure any identifying mark on the goods;
  - (c) maintain the goods in satisfactory condition and keep them insured on our behalf for their full price against all risks with a reputable insurer. You shall obtain an endorsement of our interest in the goods on your insurance policy, subject to the insurer being willing to make the endorsement. On request you shall allow us to inspect goods and the insurance policy;
  - (d) give us, upon demand, such information as you may reasonably require from time to time relating to:
    - (i) the goods; and
    - (ii) your ongoing financial position.
- 5.6 If before title to the goods passes to you, you become subject to any of the events listed in clause 11.1c then, without limiting any other right or remedy that we may have:
- (a) your right to use the goods in the ordinary course of your business will immediately cease without notice from us; and
  - (b) we may at any time require you to deliver up any goods in your possession that have not been irrevocably incorporated into another product and if you fail to do so promptly, we may enter your premises or that of any third party where the relevant goods are stored to recover them.

## 6. DESCRIPTIONS AND EXCLUSIONS

- 6.1 The description of the goods, as set out in our quotation, the binding order and/or the technical specification is deemed to be exhaustive. No other descriptions relating to the goods, whether on or website, in any advertising or promotional materials or otherwise, are binding upon us and they shall not form part of the contract. If there is any conflict or ambiguity between our quotation, the binding order and/or the technical specification, the following order of priority shall determine which documents shall prevail: technical specification, our quotation, the binding order.
- 6.2 You shall be responsible for ensuring that the goods are fit for your intended purpose. We do not warrant that the goods are fit for any particular purpose and you should undertake your own assessments, including shelf life, packing and transport trials to establish the suitability of the goods prior to your commercial use.
- 6.3 You shall, in the case of any printed material, ensure that all artwork, design, colours and proofs are carefully checked and approved with us before placing your order].

## 7. WARRANTY

- 7.1 Subject to the remaining provisions of this clause 7 we warrant that on the warranty start date and for the warranty period, the goods shall:
- (a) conform in all material respects with their technical specification;
  - (b) be free from material defects in design, material and workmanship; and
  - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 7.2 Save as set out in clause 7.1 you acknowledge and accept that we have made no warranties or representations in relation to the goods, including (without limitation) their fitness for any particular purpose, unless expressly set out in a binding order.
- 7.3 Subject to clause 7.4, if you believe that all or any of the goods do not comply with the warranty set out in clause 7.1 at any time during the warranty period:
- (a) you shall notify us in writing within 3 business days of the date the goods are delivered to you in accordance with clause 5 (in the case of defects which are apparent upon visual inspection) or, in respect of latent defects, within 3 working days of your discovery of the same;
  - (b) you shall give us a reasonable opportunity of examining such goods; and

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- (c) you (if we ask you to do so) shall return such goods to our place of business at our cost,
- and, subject to you performing your obligations in accordance with this clause 7.3, if we agree that such goods fail to comply with the warranty set out in clause 7.1 during the warranty period we shall either (at our option) repair or replace the defective goods, or refund the price of the defective goods in full.
- 7.4 We shall not be liable for any goods which fail to comply with the warranty set out in clause 7.1 at any time outside the warranty period or if we believe (acting reasonably) that:
- (a) the defect has arisen because you failed to follow our oral or written instructions as to the storage or use of the goods or (if there are none) good industry practice regarding the same;
  - (b) you make any further use of those goods after giving notice in accordance with clause 7.3;
  - (c) the defect has arisen as a result of wilful damage, negligence, or abnormal storage or working conditions.
- 7.5 Except as provided in this clause 7, we shall have no liability to you in respect of the goods' failure to comply with the warranty set out in clause 7.1.
- 7.6 In the event that we are threatened with or involved in any legal action, whether civil or criminal, ("the action") concerning goods supplied to you under the contract:
- (a) you will on receipt of a written demand from us make any of the goods available to us for inspection at such times as we may reasonably request and deliver to us copies of all documents in your custody, possession or control relating to the goods concerned which are relevant to the action.
  - (b) you will assist us in avoiding or defending the action or minimising the damage resulting from the action including but not limited to tracing all parties whose products may have been packaged by the goods.

### 8. LIMITATION OF LIABILITY

- 8.1 Each of the sub-clauses in this clause 8 are to be treated as separate and independent.
- 8.2 Nothing in these conditions shall be deemed to exclude or limit our liability for death or personal injury resulting from negligence, or for fraudulent misrepresentation or for any other liability which cannot be excluded or limited by law.
- 8.3 Subject to clause 8.2 we shall not in any circumstances be liable to you in respect of any loss of profit, revenue, goodwill, reputation, sales, contracts, savings, products, production or other pure financial loss that you suffer or for any indirect and/or consequential loss or damage, whether arising in contract, tort (including negligence), misrepresentation, restitution or otherwise breach of statutory duty or otherwise, in connection with any goods sold to you pursuant to a contract.
- 8.4 Subject to clause 8.2 our total liability to you in relation to a contract, however arising, shall be limited to the price payable by you pursuant to that contract.
- 8.5 Save as expressly stated herein or in the guarantee supplied with the goods, all warranties and conditions whether express or implied by statute (including in particular Section 13, 14 and 15 of the Sale of Goods Act 1979), usage, trade custom or otherwise relating to the quality or nature of the goods or their life or wear or fitness for any particular purpose or use under any specific conditions are hereby expressly excluded.
- 8.6 We shall not in any circumstances be liable to you under any contract once the limitation period applicable to a specific legal course of action has expired.

### 9. FORCE MAJEURE

- 9.1 Force majeure event means any circumstance not within a party's reasonable control including, without limitation:
- (a) acts of God, flood, lightning, storm, typhoon, tornado, drought, earthquake, landslide, soil erosion, subsidence, washout or other natural disaster;
  - (b) epidemic or pandemic;
  - (c) terrorist attack, civil war, civil commotion, disturbance or riots, blockade, war (whether declared or undeclared), threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, acts of terrorism, insurrection, military uprising or act of public enemy;
  - (d) fire, explosion, nuclear, chemical or biological contamination or sonic boom;

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- (e) any laws, rules, regulations, orders of any governmental authority or any action taken by a government or public authority, or compliance with them including without limitation imposing an export or import restriction, quota or prohibition or failing to grant a necessary licence or consent;
  - (f) collapse of buildings, fire, explosion or accident;
  - (g) any labour or trade dispute, strikes, industrial action or lockouts;
  - (h) non-performance by suppliers or subcontractors; and
  - (i) transport accidents or incidents, interruption or failure of utility service.
- 9.2 Provided it has complied with clause 9.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this contract by a force majeure event (affected party), the affected party shall not be in breach of this contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 9.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the affected party.
- 9.4 The affected party shall:
- (a) as soon as reasonably practicable after the start of the force majeure event, notify the other party in writing of the force majeure event, the date on which it started, its likely or potential duration, and the effect of the force majeure event on its ability to perform any of its obligations under the contract; and
  - (b) use all reasonable endeavours to mitigate the effect of the force majeure event on the performance of its obligations.

#### 10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Subject to clause 10.2 all intellectual property subsisting in the goods belong to the manufacturer.
- 10.2 You shall own the intellectual property rights in the packaging design where you have specified the design.
- 10.3 You acknowledge and accept that if any claim is made or threatened against you that your possession or use of the goods (or any part of them) infringes the intellectual property rights of any third party, we shall have no liability or obligation to you in relation to the same. In such circumstances, you should contact the manufacturer, who shall advise you of any action you need to take and of any remedies available to you (if any).

#### 11. TERMINATION

- 11.1 Without prejudice to any other rights we have at law or under the contract, we may by notice in writing to you, terminate any contract forthwith or suspend any further deliveries under the contract, without any liability to you if:
- (a) You fail to pay any undisputed amount due under a contract on the due date for payment and remain in default not less than 14 days after being notified in writing to make payment;
  - (b) You shall commit any breach of any of the terms of any other contract with us PROVIDED if such breach is in our opinion remediable that we have previously given you notice thereof and the same had not been remedied within seven days thereafter; or
  - (c) You become subject to any of the events listed below or we reasonably believe that you are or about to become subject to them:
    - (i) you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or you admit inability to pay your debts or are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986; or
    - (ii) you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors; or
    - (iii) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up; or
    - (iv) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over you; or

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- (v) the holder of a qualifying floating charge over your assets has become entitled to appoint or has appointed an administrative receiver;
  - (vi) a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets; or
  - (vii) you take any step or action in connection with obtaining a moratorium;
  - (viii) one of your creditors or encumbrancers attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days; or
  - (ix) any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1(c) (i) to clause 11.1(viii) (inclusive); or
  - (x) you suspend or cease, or threaten to suspend or cease, carrying on all or a substantial part of your business; or
  - (xi) your financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the contract is in jeopardy or
  - (xii) you undergo a change of control (as defined in the Corporation Tax Act 2010).
- 11.2 We may suspend or terminate all or any contracts in accordance with clause 4.3 (c), if any of the circumstances in clause 11.1 apply, or in the event that you undergo a change of control (as defined by section 1124 of the Corporation Tax Act 2010).
- 11.3 Each contract shall expire on the date that the parties have performed all of their obligations under the contract.
- 11.4 Termination or expiry of a contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages for any breach of the contract that existed at or before the date of termination or expiry.

## 12. GENERAL

- 12.1 All contracts shall be governed by and construed in accordance with English Law and all disputes arising under such contracts shall be submitted to the exclusive jurisdiction of the English courts.
- 12.2 The parties to the contract do not intend that any term of the contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- You may not assign, subcontract, delegate or otherwise deal with your rights or obligations under a contract without our prior written consent.
- 12.3 The contract constitutes the entire agreement between the parties. You acknowledge that you have not relied on any statement, promise or representation made or given on our behalf which is not set out in the contract.
- 12.4 No waiver of any right or remedy under these conditions or by law shall be effective unless given in writing and shall not affect any subsequent right or remedy.
- 12.5 A failure or delay by us to exercise any right or remedy provided under these conditions or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise by us of any right or remedy provided under these conditions or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 12.6 Except as set out in these conditions no variation of the contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by us.
- 12.7 Any notice given to a party under the contract shall be in writing and addressed to that party at its registered office or principal place of business (if not a company) and shall be delivered and addressed as follows:
- (a) by hand or commercial courier when left at the address;
  - (b) by prepaid first-class post or recorded delivery at 9.00am on the second working day after posting.
- 12.8 If any court or competent authority finds that any provision of the contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the contract shall not be affected. If any invalid, unenforceable or illegal provision of the contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.