

General Trading Conditions of Chrysal UK LTD

1. General

- a) In these standard trading terms and conditions ("**Conditions**"), unless the context clearly indicates another intention, the expressions detailed below will have the meanings attributed to them. Other less frequently used expressions are defined in the body of the Conditions:
"**Buyer**" means the person or firm who purchases the Goods and/or the Services from the Seller;

"**Contract**" means the contract for the sale and purchase of the Goods and/ or Services in accordance with these Conditions;

"**Force Majeure Event**" means any event or circumstance (not in existence on the date of the Contract) beyond the reasonable control of either party including: (a) a labour dispute unless it involves the workforce of such party or sub-contractors; (b) civil commotion, terrorist attack, blockade, embargo or armed conflict; (c) fire, explosion, extreme weather conditions, natural physical disaster or nuclear, chemical or biological contamination; (d) epidemic or pandemic; (e) malicious damage to or breakdown of plant, machinery or vehicles which have been adequately maintained; (f) interruption or failure of a utility service or transport network or the internet; and (g) compliance with any action by a government or public authority including imposing an export or import restriction, quota or prohibition;

"**Goods**" means the goods (or any part of them) set out in the Order;

"**Intellectual Property Rights**" means copyright and related rights, trademarks, service marks, rights in designs, patents, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world. "Intellectual Property Right" means any one of the Intellectual Property Rights;

"**Order**" means the Buyer's order for the Goods, as set out in the Buyer's purchase order form, the Buyer's written acceptance of the Seller's quotation, or any separate contract between the Buyer and the Seller which is subject to these Conditions, as the case may be;

"**Seller**" means CHRYSAL UK LIMITED;

"**Services**" means the services (or any part of them) set out in the Order.

- b) In these Conditions, unless the context clearly indicates another intention:
- a. a reference to any gender includes other genders and the singular includes the plural and vice versa;
 - b. a statutory provision includes a reference to the statutory provision as modified or re-enacted or both from time to time and any subordinate legislation made under the statutory provision;
 - c. a document is a reference to the document as from time to time supplemented or varied in accordance with these Conditions; and
 - d. the words "include", "including", and "such as" are to be construed as if they were immediately followed by the words "without limitation".

- c) These Conditions shall (unless or except to extent the Seller agrees otherwise in writing) apply to all (offers for) sales of Goods and/or Services by the Seller to the Buyer and by placing an Order with the Seller the Buyer is deemed to accept them.
- d) These Conditions apply to each Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing (except that any special terms agreed in writing between the Seller and the Buyer which are expressly stated to take precedence over these Conditions shall take precedence).
- e) No other conditions or modifications of these Conditions shall be binding on the Seller unless the Seller agrees thereto in writing for which purpose only a director of the Seller has authority to amend or waive these Conditions 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 notification or other communication from the Buyer.
- f) All descriptions, specifications, prices and other data quoted or submitted by the Seller or included in any offer, advertisement, illustrated matter or price list are to be deemed approximate only (except where stated in writing to be exact or expressly made or of the essence) and shall not form part of these Conditions and the Seller has the right to vary all or any of them at its discretion.

2. Order

- a) Each Order constitutes an offer by the Buyer to purchase the Goods and/or the Services in accordance with these Conditions.
- b) The Buyer shall ensure that the terms of the Order and any relevant specification are complete and accurate.
- c) The quantity, price and description of the Goods and/or the Services shall be as set out on the face of the Order.
- d) The Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Order (electronic mail included), at which point the Contract shall come into existence.
- e) No changes, amendments, waivers or cancellations of Orders shall be valid unless approved in writing (electronic mail included) by an authorized representative of the Seller, such approval to be given or refused at the Seller's sole discretion.

3. Prices

- a) Unless otherwise agreed in writing by the Seller and the Buyer, the price payable by the Buyer, for each Order, shall be the price set out in the Seller's price list in force at the date of dispatch of the relevant Goods and/or performance of the Services (as applicable).
- b) All prices are subject to change without prior notice at any time before the Goods are dispatched for delivery or the Services are performed.
- c) Unless otherwise agreed between the Seller and Buyer in writing, the price of the Goods and/or the Services excludes:
 - a. amounts in respect of value added tax ("**VAT**"), which the Buyer shall additionally be liable to pay to the Seller at the prevailing rate; and

- b. the costs and charges of packaging, insurance, transport, delivery and any tariffs or duties payable in respect of the Goods and/or Services, which shall be additionally invoiced to the Buyer.

4. Payment

- a) Unless otherwise agreed by the Seller in writing, or where a monthly payment account has been opened in the name of the Buyer, in respect of the Goods, the Seller shall invoice the Buyer when the Goods are dispatched and, in respect of the Services, the Seller shall invoice the Buyer on completion of the Services. Payment of all invoices shall be made within 30 days from the date of the invoice unless agreed otherwise in writing.
- b) The Seller reserves the right at any time at its sole discretion to withhold delivery of the Goods or execution of the Services ordered by the Buyer if at the relevant time there is outstanding and due from the Buyer payment for Goods and/or Services previously delivered or any moneys due and payable by the Buyer to the Seller. The Seller may offset against any money owed by the Buyer to the Seller pursuant to these Conditions or otherwise, any sums received from the Buyer regardless of what the Buyer purports to designate the sums to be on account of. This right of offset will continue unless and until the Buyer has paid, satisfied or discharged all monies, debts or liabilities due or owing to the Seller by the Buyer. The Buyer hereby irrevocably authorizes the Seller to deduct from any monies due or owing to the Seller by the Buyer from time to time.
- c) Payment of all sums due on the due date for payment shall be of the essence of the Contract.
- d) If the Buyer fails to make a payment due to the Seller under the Contract by the due date then (without limiting any other remedies available to the Seller under the Contract) the Buyer shall pay interest on the overdue amount from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause shall accrue each day at the rate of four per cent (4%) a year above the base rate of the Bank of England from time to time, but at four per cent (4%) a year for any period when that base rate is below zero per cent (0%).
- e) All amounts due under the Contract shall be paid in full without any offset, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5. Delivery of Goods

- a) Time of delivery is not of the essence of the Contract and any time or date specified by the Seller as the time at which or date on which Goods will be dispatched or delivered) is given and intended as an estimate only and the Seller shall not be liable for any loss, damage or expense howsoever arising from delay in delivery.
- b) The Buyer shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (the "**Delivery Location**") at any time after the Seller notifies the Buyer that the Goods are ready.
- c) The Seller is permitted to deliver the Goods at any time of day, including where the Buyer's site is closed for trading, to enable the Seller to maximize its delivery window.
- d) Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
- e) The Seller has the right to cancel or suspend deliveries in whole or part and/or substitute the closest alternative Goods available at the time for delivery, provided that the Seller will notify the

Buyer as soon as reasonably practicable of such cancellation, suspension or substitution and provide the Buyer with the reason for such cancellation, suspension or substitution.

- f) If for any reason the Buyer fails to accept delivery of the Goods on the date of delivery then, subject to where delay was caused by the Seller's default, the Seller may store the Goods until delivery takes place, whereupon the Buyer shall be liable for all related costs and expenses (including storage and any applicable insurance costs).
- g) If the Seller is delayed or prevented from delivering the Goods (or any part or parts of them) due to any act or omission of the Buyer, its agents or employees, then the Seller may, at its option and without prejudice to any other rights, either:
 - a. suspend performance and, if the Seller thinks fit, store the Goods at the Buyer's expense and risk, until the Seller can deliver the Goods or until it exercises its option to cancel the Order and another buyer for the Goods is found; or
 - b. cancel the Order or so much of it as remains unperformed at any time after such act or omission. The Seller may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Buyer for any shortfall below the price of the Goods.
- h) The quantity of any consignment of Goods as recorded by the Seller upon dispatch from the Seller shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can produce conclusive evidence to the contrary.
- i) The Seller reserves the right to make delivery by instalments, and the period during which delivery by instalments may be made and the quantity of Goods delivered in each instalment shall be in the Seller's discretion. Each instalment shall constitute a separate contract and any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.
- j) The Seller shall be entitled to postpone or cancel delivery in whole or in part when it is delayed in or prevented from making or obtaining the Goods (or materials, parts, components or services necessary for the Goods) by any cause beyond the Seller's control. During any of the foregoing events the Seller's obligations shall be suspended until such events cease or until the Seller cancels delivery (as the case may be) and the Seller shall not be required to obtain elsewhere in the market goods with which to replace or permit it to deliver the Goods which have been postponed or cancelled as a result of any of said events. In event of cancellation, the Seller shall be paid pro rata for Goods delivered or work done to the date of cancellation.
- k) The Buyer shall be solely responsible for the proper unloading of the Goods. If, to assist the Buyer to remove the Goods from the point of delivery, the Seller or any sub-contractor does any loading or unloading of the Goods free of charge, no liability whatsoever shall be incurred by the Seller or sub-contractor and the Buyer shall indemnify the Seller in respect thereof.
- l) If the Seller fails to deliver the Goods, 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. The Seller shall have no liability for any failure to deliver the Goods to the extent that such failure 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.

6. Risk

- a) All risk in the Goods shall pass to the Buyer when the Goods are delivered to the Buyer. Delivery to a carrier or to any person, firm or company on the Buyer's behalf shall constitute delivery to the Buyer.

7. Title

- a) Title to the Goods shall not pass to the Buyer until the earlier of:
 - a. Seller has received payment in full (in cash or cleared sums) for the Goods and any other goods that the Seller has supplied to the Buyer in respect of which payment has become due, together with any interest or other sums payable; and
 - b. the Buyer resells the Goods, in which case title to the Goods shall pass to the Buyer at the time specified in clause 7(c) below.
- b) Until title to the Goods has passed to the Buyer, the Buyer shall:
 - a. store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property;
 - b. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - c. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - d. notify the Seller immediately if it becomes subject to any of the events listed in clause 14; and
 - e. give the Seller such information as the Seller may reasonably require from time to time relating to:
 - i. the Goods; and
 - ii. the ongoing financial position of the Buyer.
- c) Subject to clause 7(d), the Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Seller receives payment for the Goods. However, if the Buyer resells the Goods before that time:
 - a. it does so as principal and not as the Seller's agent; and
 - b. title to the Goods shall pass from the Seller to the Buyer immediately before the time at which resale by the Buyer occurs.
- d) At any time before title to the Goods passes to the Buyer, the Seller may:
 - a. by notice in writing, terminate the Buyer's right under clause 7(c) to resell the Goods or use them in the ordinary course of its business; and
 - b. require the Buyer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another Good and if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.
 - c. The Buyer may, while not in default in terms of clauses 7(e) and (f) below, sell Goods notwithstanding the Seller's title.

- e) Any sale by the Buyer of Goods owned by the Seller shall, as between the Buyer and person to whom the Buyer sells, be made by the Buyer as principal, but the proceeds of sale shall belong to the Seller to extent that the Buyer has not paid the Seller for such Goods until such payment has been made, and until such time the proceeds shall be held by the Buyer in a fiduciary capacity on behalf of the Seller and shall be kept in a separate account without prejudice to the Seller's rights to trace same if the Buyer fails to keep the proceeds separate as aforesaid.
- f) The Buyer will, if the Seller so requires, assign to the Seller free of charge the Buyer's rights to unpaid resale proceeds of the Seller's Goods.

8. Warranty of Seller

- a) The Seller warrants that on delivery of the Goods shall:
 - a. conform in all material respects with their description; and
 - b. be free from material defects in design, material and workmanship.
- b) Subject to clause 8(c), if:
 - a. the Buyer discovers that some or all of the Goods do not comply with the warranty set out in clause 8(a) within three (3) days of delivery and gives notice in writing to the Seller within seven (7) days of that discovery and provides such photographic evidence of such damage or defect;
 - b. the Seller is given a reasonable opportunity of examining such Goods; and
 - c. the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Seller's cost for the examination to take place,

the Seller shall, at its sole discretion, repair or replace the defective Goods or refund the price of the defective Goods in full.
- c) The Seller shall not be liable for the Goods' failure to comply with the warranty set out in clause 8(a) if:
 - a. the Buyer makes any further use of such Goods after giving notice in accordance with clause 8(b);
 - b. the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - c. the defect arises as a result of the Seller following any drawing, design or Specification supplied by the Buyer;
 - d. the Buyer alters or repairs such Goods without the written consent of the Seller;
 - e. the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal storage or working conditions; or
 - f. the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- d) The provisions of this clause 8 shall be the sole and exclusive remedy for the Buyer for any breach by the Seller of the warranties in clause 8(a) and, except as provided in this clause 8, the

Seller shall have no liability to the Buyer in respect of the Goods' or Services' failure to comply with the warranty set out in clause 8(a).

- e) The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- f) These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

9. Supply of Services

- a) The Seller shall supply the Services to the Buyer in accordance with the service specification as agreed in writing in all material respects.
- b) The Seller shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- c) The Seller reserves the right to amend the service specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Seller shall notify the Buyer in any such event.
- d) The Seller warrants to the Buyer that the Services will be provided using reasonable care and skill.

10. Limitation of the Seller's Liability

- a) Except as provided in these Conditions or otherwise agreed by the Seller in writing and to the fullest extent permitted by law, no warranty, condition, representation, undertaking or obligation, express or implied, imposed by statute, common law, custom, course of dealing or otherwise on the part of the Seller shall be deemed to be a term of the supply of the Goods or a representation by which the Buyer has been induced to enter into these Conditions.
- b) The Buyer shall in no circumstances, save for fraudulent misrepresentation by the Seller, be entitled to recover from the Seller damages for breach of a contract for negligence or otherwise arising exceeding the price paid by the Buyer with respect to the particular delivery or deliveries in question.
- c) Except as provided above, the Seller shall not be liable to the Buyer, whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any damage or direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with:
 - a. any of the Goods, or the sale or supply, or failure or delay in supply, of the Goods, or the provision of the Services by the Seller or on the part of the Seller's employees, agents or sub-contractors;
 - b. any breach by the Seller of any of the express or implied terms of these Conditions;
 - c. any use made or sale by the Buyer of any of the Goods or the Services; or
 - d. any statement made or not made, or advice given or not given, by or on behalf of the Seller.
- d) Nothing in these Conditions limits any liability which cannot legally be limited, including liability for:

- a. death or personal injury caused by negligence;
- b. fraud or fraudulent misrepresentation;
- c. breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- d. defective Goods under the Consumer Protection Act 1987.

11. Indemnity of the Buyer

- a) The Buyer indemnifies the Seller against all losses incurred by the Seller as a direct or indirect result of or arising from:
 - a. claims brought or threatened to be brought by third parties in respect of the handling, storage, transportation and/or consumption of the Goods after delivery has occurred; and
 - b. acts and/or omissions (whether in negligence or otherwise) of the Buyer that void and/or reduce the sum payable under the Seller's insurance policy for the Goods and the Services.

12. Intellectual Property

- a) The Buyer acknowledges that all Intellectual Property Rights in the Goods and the Services belong solely to the Seller.
- b) The Seller gives no warranty, either express or implied, with respect to the validity of the Seller's Intellectual Property Rights or that the Seller's Intellectual Property Rights will not infringe the rights of any third party.
- c) The Buyer shall indemnify the Seller against all liabilities, actions, costs (including legal and other professional costs) expenses, claims, proceedings and demands in respect of any infringement or alleged infringement by the Seller of Intellectual Property Rights attributable to the Seller complying with any special instructions from or requirements of the Buyer relating to the Goods and the Services.

13. Confidential Information

- a) The Buyer agrees not to divulge or communicate to any person (other than those representatives of the Buyer who need to know for the purpose of carrying on the Buyer's business or upon the Seller's instructions or with the Seller's written approval) nor use for the Buyer's own purposes or for purposes other than carrying on the Buyer's business any of the confidential information which the Buyer may have received or obtained by virtue of these Conditions and/or the Buyer's course of dealings with the Seller provided that this restriction shall apply indefinitely but shall cease to apply to information which has come into the public domain other than by way of the Buyer breaching this provision.

14. Termination

- a) Without limiting its other rights or remedies, the Seller may terminate the Contract (or any part of it) with immediate effect by giving written notice to the Buyer if:
 - a. the Buyer commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within thirty (30) days of being notified in writing to do so;

- b. the Buyer fails to pay any amount due under the Contract on the due date for payment;
 - c. the Buyer fails to take delivery of the Goods in accordance with any written instruction of the Seller;
 - d. the Buyer suspends, or threatens to suspend, ceases, or threatens to cease, to carry on all or a substantial part of its business;
 - e. 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), obtaining a moratorium, 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
 - f. the Buyer's financial position deteriorates so far as to reasonably justify the Seller's opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- b) On termination of the Contract for any reason the Buyer shall immediately pay to the Seller all the Seller's unpaid invoices and interest and, in respect of Goods or Services supplied but for which no invoice has been submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately on receipt.
- c) Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- d) Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

15. Force Majeure

- a) These Conditions shall be suspended during the period and to the extent of such period that Seller believes either party is prevented or hindered from complying with their obligations under any part of these Conditions by a Force Majeure Event.
- b) If such period of suspension exceeds ninety (90) days, then the Seller shall, upon giving written notice to the Buyer, be able to require that:
- a. all money due to Seller up to the date of the Force Majeure Event shall be paid immediately; and
 - b. the Contract is terminated without prejudice to the accrued rights of either party.

16. Notices

- a) Any notice given in connection with the Contract must be in writing and shall be effected by personal delivery, e-mail or by registered mail postage. If effected by personal delivery it will be deemed to be received at the time the notice is left at the proper address, if effected by e-mail it shall be deemed to be received on the day of sending and if effected by post shall be deemed to be received forty-eight (48) hours after the date of posting.

17. Assignment

- a) The Seller may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

- b) The Buyer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Seller.

18. Variation

- a) No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorized representatives).

19. Waiver

- a) No forbearance, delay or indulgence by the Seller in enforcing the provisions of these Conditions shall prejudice or restrict the rights of the Seller nor shall any waiver of the Seller's rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for the Seller is exclusive of any other right, power or remedy available to it, whether under these Conditions or not, and each such right, power or remedy shall be cumulative.

20. Severance

- a) Each of the terms and conditions herein contained shall be severable and distinct from one another (so far as the context permits) and if at any time any one or more of such terms or conditions is or becomes invalid, illegal or unenforceable the validity, legality and/or enforceability of the remaining provisions herein contained shall not be in any way affected or impaired thereby.

21. Third party rights

- a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

22. Choice of law and jurisdiction

- a) The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed and construed in accordance with the laws of England and Wales.
- b) Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

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