



# FORMET FABRICATIONS LTD

Working Together to Create Success



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## TERMS AND CONDITIONS FOR THE SALE OF GOODS

### 1. Application and entire agreement

- 1.1. These Terms and Conditions will apply to the purchase of goods details in our quotation (Goods) by the buyer (you) from Formet Fabrications Ltd a company registered in England and Wales under number 4758205 whose registered office is at Perfecta House, Linden Park, Littlehampton, West Sussex, BN17 7BJ (we or us).
- 1.2 These Terms and conditions will be deemed to have been accepted by you when you accept them or the quotation or from the date of any delivery of the Goods (whichever happens earlier) and will constitute the entire agreement between us and you.
- 1.3 The Terms and Conditions and the quotation (together, the Contract) apply to the purchase and sales of any Goods between us and you, to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 2. Interpretation

- 2.1 A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.
- 2.2 The headings in these Terms and Conditions are for the convenience only and will not affect their interpretation.
- 2.3 Words imparting the singular number include plural and vice-versa.

### 3. Goods

- 3.1 The description of the Goods is set out in our sales documentation, unless expressly changed in our quotation. In accepting the quotation, you acknowledge that you have not relied upon any statement, promise or other representations about the Goods by us. Descriptions of the Goods set out in our sales documentation are intended as a guide only.
- 3.2 We can make any changes to the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements.

### 4. Price

- 4.1 The price (Price) of the Goods is set out in our quotation current at the date of your order or such other price as we agree in writing.
- 4.2 If the cost of the Goods to us increases due to any factor beyond our control including, but not limited to, material costs, labour costs, changes to delivery rates, we can increase the Price prior to delivery.
- 4.3 Any increase in the Price under the clause above will only take place after we have informed you about it.
- 4.4 The Price is exclusive of fees for packaging and delivery, unless otherwise agreed.
- 4.5 The Price is exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

### 5. Cancellation and alteration

- 5.1 Details of the Goods as described in the clause above (Goods) and set out in our sales documentation are subject to alteration without notice and are not a contractual offer to sell the Goods which is capable of acceptance.
- 5.2 The quotation is valid for a period of 30 days only from the date shown in it unless expressly withdrawn by us at an earlier time.

## **6. Payment**

- 6.1 We will invoice you for the Price either:
  - a. On or at any time after delivery of the Goods; or
  - b. Where the Goods are to be collected by you or where you wrongfully do not take delivery of the Goods, at any time after we have notified you that the Goods are ready for collection or we have tried to deliver them.
- 6.2 You must pay the Price within 30 days of the date of our invoice or otherwise according to any credit terms agreed between us.
- 6.3 If you do not pay within the period set out above, we will suspend any further deliveries to you and without limiting any of our other rights or remedies for statutory interest, charge you interest of 4% per annum above the base rate of the Bank of England from time to time on the amount outstanding until you pay in full.
- 6.4 Time for payment will be of the essence of the Contract between us and you.
- 6.5 All payments must be made in British Pounds.
- 6.6 Both parties must pay all amounts due under these Terms and Conditions in full without any deduction or withholding except as required by law and neither party is entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

## **7. Delivery**

- 7.1 We will arrange for the delivery of the Goods to the address specified into the quotation, or your order or to another location we agree in writing.
- 7.2 If you do not take delivery or if we both agree, you must collect the Goods from our premises.
- 7.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond our control or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 7.4 We can deliver the Goods by instalments, which will be invoiced and paid for separately. Each instalment is a separate contract. Any delay or defect in an instalment will not entitle you to cancel any other instalment.

## **8. Inspection and acceptance of Goods**

- 8.1 You must inspect the Goods on delivery or collection.
- 8.2 If you identify any damages or shortages, you must inform us within 7 days of delivery, providing details.
- 8.3 Other than by agreement, we will only accept returned Goods if we are satisfied that those Goods are defective and if required, have carried out an inspection.
- 8.4 Subject to your compliance with this clause and/or our agreement, you may return the Goods and we will, as appropriate, repair or replace, or refund the Goods or part of them.
- 8.5 We will be under no liability or further obligation in relation to the Goods if:
  - a. If you fail to provide notice as set above; and/or
  - b. You make any further use of such Goods after giving notice under the clause above relating to damages and shortages; and/or
  - c. The defect arises because you did not follow our oral or written instructions about the storage and/or maintenance of the Goods; and/or
  - d. The defect arises from normal wear and tear of the Goods; and/or  
The defect arises from misuse or alteration of the Goods, negligence, wilful damage or any other act by you, your employees or agents or any third parties.
  - e. You bear the risk and cost of returning the Goods.
- 8.6 Acceptance of the Goods will be deemed to be upon inspection of them by you and in any event within 7 days after delivery.

## **9. Risk and title**

- 9.1 The risk in the Goods will pass to you on completion of delivery.
- 9.2 Title to the Goods will not pass to you until we have received payment in full for: (a) the Goods and /or (b) any goods or services that we have supplied to you in respect of which payment has become due.
- 9.3 Until title of the Goods has been passed to you, you must (a) hold the Goods on a fiduciary basis as our bailee; and/or (b) store the goods separately and do not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and/or (c) keep the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.
- 9.4 As long as, the Goods have not been resold, or irreversibly incorporated into another product, and without limiting any other right or remedy we may have, we can at any time ask you to deliver the Goods and, if you fail to do so promptly, enter any of your premises or of any third party where the Goods are stored in order to recover them.

## **10. Termination**

- 10.1 We can terminate the sale of Goods under the Contract where:
- a. You commit a material breach of your obligations under these Terms and Conditions;
  - b. You are or become or, in our reasonable opinion, are about to become the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors;
  - c. You enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with your creditors; or
  - d. You convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part thereof, any documents are filed with the court for the appointment of an administrator, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder ( as defined in para.14 of Schedule B1 of the insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of your affairs or for the granting of an administration order, or any proceedings are commenced relating to your insolvency or possible insolvency.

## **11. Limitation of liability**

- 10.2 Our liability under the Contract, and in breach of statutory duty, and in tort, misrepresentation or otherwise will be limited to this clause.
- 11.2 Subject to the clauses above on Inspection and Acceptance and Risk and Title. All warranties, conditions or other terms implied by statute or common law (save for those implied by section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.
- 11.3 If we do not deliver the Goods, our liability is limited, subject to the clause below, to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 11.4 Our total liability will not, in any circumstances, exceed the total amount on the Price payable by you.
- 11.5 We will not be liable (whether caused by our employees, agents or otherwise) in connection with the Goods, for:
- a. Any indirect, special or consequential loss, damage, costs or expenses; and/or
  - b. Any loss of profits; loss of anticipated profits; loss of business. Loss of data; loss of reputation or goodwill; business interruption; or, other third-party claims; and/or
  - c. Any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; and or
  - d. Any losses caused directly or indirectly by any failure or breach by you in relation to your obligations; and/or
  - e. Any loss relating to the choice of the Goods and how they will meet your purpose or the use by you of the Goods supplied.

11.6 The exclusions of liability contained within the clause will not exclude or limit our liability for death or personal injury caused by our negligence; or for any matter for which it would be illegal for us to exclude or limit our liability; and for fraud or fraudulent misrepresentation.

**12. Circumstances beyond the control of either party**

12.1 Neither party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes included, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, act of war, governmental action or any other event that is beyond the control of the party in question.

**13. No Waiver**

13.1 No waiver by us of any breach of these Terms and Conditions by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

**14. Severance**

14.1 If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

**15. Law and Jurisdiction**

15.1 The Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.