

PSP Terms and Conditions (“the Terms”)

1. Interpretation

- 1.1. “Contract” means the contract for the manufacture, sale, supply and purchase of the Goods or the supply of services.
- 1.2. “Customer” means the person who accepts PSP’s Written quotation for the entering into Contract with PSP.
- 1.3. “Goods” means the goods described in the Contract.
- 1.4. “Terms” means these PSP Terms and Conditions as set out in this document including any special terms and conditions agreed in writing between PSP and the Customer.
- 1.5. “PSP” means PSP Architectural Ltd whose registered office is at Unit 11, All Saints Industrial Estate, Shildon, County Durham DL4 2RD a company registered in England and Wales with company registration number 6440101.
- 1.6. “Writing” and/or “Written” includes any letter, telex, facsimile and Email transmission.
- 1.7. “Order” means either PSP’s Written quotation and/or the Customer’s Written order.
- 1.8. “Price” means the Price of the Goods excluding Value Added Tax.
- 1.9. “Price of the Goods” includes any costs and/or charges and/or any other matters as referred to under clause 4 below.
- 1.10. “CEDR” and/or “CEDR Solve” means Centre for Effective Dispute Resolution, 70 Fleet Street, London EC4Y 1EU.

2. Entire Agreement

- 2.1. The headings in these Terms are for convenience only and shall not affect their interpretation.
- 2.2. These Terms form the entire understanding and agreement between PSP and the Customer.
- 2.3. These Terms exclude any other terms and conditions which the Customer might seek to impose even though such terms and conditions may be submitted in a later document and/or purport to exclude or supersede any terms and conditions inconsistent to them or may be contained in any offer, acceptance or counter offer made by the Customer.
- 2.4. In entering into contract with PSP the Customer agrees to these Terms.
- 2.5. No order shall be binding on PSP unless or until accepted by PSP in Writing.

3. Basis of Sale

- 3.1. PSP shall sell and the Customer shall purchase the Goods in accordance with PSP’s Written quotation (if accepted by the Customer), or the Customer’s Written order (if accepted by PSP) subject in either case to these Terms.
- 3.2. Employees and/or agents of PSP are not authorised to make any representations concerning the Goods unless confirmed by PSP in Writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed.
- 3.3. Any advice or recommendation given by PSP or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by PSP is followed or acted on entirely at the Customer’s own risk and accordingly PSP shall not be liable for any such advice or recommendation which is not so confirmed.
- 3.4. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by PSP shall be subject to correction without any liability on the part of PSP.

4. Price of the Goods

- 4.1. All prices and/or estimates and/or quotations accepted by the Customer are subject to revision where at any time before delivery of the Goods there is an increase in the cost of raw materials and/or labour and/or circumstances arise before delivery which makes revision necessary. Such

increases might include a change in delivery date(s), quantities and/or specification for the Goods requested by the Customer and/or any delay caused by an instruction by the Customer and/or failure of the Customer to give PSP adequate information or instruction(s).

4.2. All prices and/or estimates and/or quotations are valid for 30 days from the date thereof.

4.3. All prices and/or estimates and/or quotations are exclusive of VAT.

4.4. All prices and/or estimates and/or quotations are ex-works. Where PSP agrees to deliver the Goods otherwise than at PSP's premises, the Customer shall be liable to pay PSP's charges for transport, packaging and insurance. In addition, the cost of pallets and/or returnable containers will be charged to the Customer, but full credit of these costs will be given back to the Customer upon return, before the overdue payment date, undamaged.

5. Orders and Specifications

5.1. The Customer shall be responsible to PSP for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer, and for giving PSP any necessary information relating to the Goods within a sufficient time to enable PSP to perform the Contract in accordance with these Terms.

5.2. The quantity, quality and description of the Goods and any specification for them shall be as set out in PSP's Written quotation (if accepted by the Customer) or the Customer's order (if accepted by PSP).

5.3. If the Goods are to be manufactured or any process is to be applied to the Goods by PSP in accordance with a specification submitted by the Customer, the Customer shall indemnify PSP against all loss, damages, costs which may be suffered by PSP.

6. Payment

6.1. PSP shall be entitled to invoice the Customer for the Price at any time after PSP has notified the Customer that the Goods are ready for collection or where PSP has delivered the Goods.

6.2. PSP reserves the right to render interim invoices as the Contract progresses and to require payment of the same before continuing with the Contract.

6.3. PSP shall not be bound to deliver the Goods until the Customer has paid the Price in full for them.

6.4. Payment of invoice(s) and/or interim invoice(s) shall become due at the date of the invoice(s).

6.5. Payment shall become overdue at the expiry of 30 days from the date of invoice and/or interim invoice, unless agreed otherwise in writing, after which PSP shall be entitled to recover the Price, notwithstanding whether delivery has been made either in whole or in part and/or whether the title in the property of the Goods has passed to the Customer or not.

6.6. The time for payment shall be of the essence. Any payment owing to PSP which has not been paid by the overdue date shall be subject to interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 from the date the payment should have been made until the date payment is made. Furthermore, if the Customer fails to make any payment by the overdue date then, without limiting any other right or remedy available to PSP, PSP may cancel the Contract altogether or alternatively, suspend any further deliveries to the Customer until such payment overdue is paid together with interest accrued therein.

6.7. PSP may appropriate any payment made by the Customer to such of the Goods (or the goods supplied under any other contract between PSP and the Customer) as PSP may think fit (notwithstanding any purported appropriation by the Customer).

6.8. This contract is divisible. Each delivery made hereunder shall be deemed to arise from a separate contract and shall be invoiced separately; any invoice for a delivery shall be payable in full in accordance with the terms of payment provided for herein, without reference to and notwithstanding any defect of default in delivery of any other instalment.

7. Risk and Property

7.1. Risk of damage to or loss of the Goods shall pass to the Customer;

- 7.1.1.in the case of goods to be delivered at PSP's premises, at the time when PSP notifies the Customer that the Goods are available for collection, or
 - 7.1.2.in the case of Goods to be delivered otherwise than at PSP's premises, at the time of delivery or if the Customer wrongfully fails to take delivery of the Goods, at the time when PSP has made delivery of the Goods.
 - 7.2. Goods remain the property of PSP until payment has been made in full. Title to the Goods comprised in the Order shall not pass until the Customer has paid the Price of the Goods in full.
 - 7.3. Until such time as the property to the Goods passes to the Customer, the Customer shall hold the Goods as PSP's fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as PSP's property.
 - 7.4. Until such time as the property in the Goods passes to the Customer, PSP may at any time require the Customer to deliver up the Goods to PSP and, if the Customer fails to do so, PSP may enter upon any premises of the Customer or any third party where the Goods are stored and repossess the Goods.
 - 7.5. The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of PSP.
8. Delivery
- 8.1. Delivery of the Goods shall be made by the Customer collecting the Goods at PSP's premises at any time after PSP has notified the Customer that the Goods are ready for collection or, if some other place for delivery is agreed by PSP, by PSP delivering the Goods to that place.
 - 8.2. Where the delivery of the Goods takes place other than PSP's premises, the Customer shall provide at its own expense, all unloading facilities required for delivery including labour and any special equipment and ensure that the site will have adequate access for all vehicles and equipment necessary for off-loading and a suitable hard standing surface for the purposes of off-loading.
 - 8.3. The Customer shall be responsible for ensuring that all licences, consents, permits or other necessary permissions have been obtained prior to delivery of the Goods.
 - 8.4. The Customer shall be responsible for ensuring that PSP has full uninterrupted right of access to the place for delivery.
 - 8.5. Any dates quoted for delivery of the Goods are approximate only and PSP shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by PSP in Writing. The Goods may be delivered by PSP in advance of the quoted delivery date on giving reasonable notice to the Customer. Later performance does not entitle the Customer to do any of the following;
 - 8.5.1.Reject the Goods
 - 8.5.2.Terminate the contract
 - 8.5.3.Withhold payment of any part of the Price
 - 8.6. If PSP fails to deliver the Goods (or any instalment) for any reason other than any cause beyond PSP's reasonable control or the Customer's fault, and PSP is accordingly liable to the Customer, PSP's liability shall be limited to the excess, if any, of the cost to the Customer, in the cheapest available market, of similar goods to replace those not delivered over the price of the Goods.
 - 8.7. If the Customer fails to take delivery of the Goods or fails to give PSP adequate delivery instructions at the time stated for delivery (other than by reason of any cause beyond the Customer's reasonable control or by reason of PSP's fault) then, without limiting any other right or remedy available to PSP, PSP may;
 - 8.7.1.store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or

8.7.2.sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.

8.8. Where extra transport costs are chargeable, it shall be at the rate of £2 per mile, each way.

9. Liability

9.1. Should any of the Goods become faulty or fail to operate in accordance with their specification PSP undertakes to replace or repair them at its sole discretion without charge provided that PSP is satisfied that the failure is due to a defect of workmanship and/or material in manufacture and provided also that the Goods have been used solely in a manner for which they are designed and/or is normal for their type and have not been misused or abused either in storage or in their fixing and provided also that the faulty Goods are returned carriage paid to PSP with written notice of the defect within 7 days of the date of delivery or where the defect or failure was not apparent, on reasonable inspection, within 3 days after discovery of the defect or failure. PSP shall not be liable for the cost of removal of the faulty Goods nor the cost of reinstatement and/or re-fixing of the repaired and/or replaced Goods. PSP will deliver at its expense the replacement or repaired Goods to the Customer. Time shall be of the essence for this clause 9.1.

9.2. If delivery is not refused and the Customer does not notify PSP in accordance with clause 9.1 the Customer shall not be entitled to reject the Goods and PSP shall have no liability for such defect or failure, and the Customer shall be bound to pay the Price as if the Goods had been delivered in accordance with the Contract. Time shall be of the essence for the purposes of this clause 9.2.

9.3. PSP shall not be liable to the Customer by reason of any misrepresentation or by reason of any implied warranty, condition or other term, or any duty at common law, or under the Terms for any special or consequential, direct or indirect loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of PSP, its employees or agents or otherwise) which arise under, out of or in connection with this Contract (including any delay in supplying or any failure to supply the Goods in accordance with the Contract or at all) or their use or resale by the Customer, and the entire liability of PSP under, out of or in connection with the Contract shall not exceed the Price of the Goods except as expressly provided in these Terms.

9.4. PSP shall not be liable to the Customer for any consequential, direct and/or indirect loss suffered by the Customer whether the loss arises from any breach of duty in contract or tort or in any other way, and shall not be liable for any damages (whether or not consequential, direct and/or indirect) arising from stoppage or breakdown of the Goods for any reason whatsoever or in any other way for the performance of the Goods in operation. For the avoidance of doubt such consequential, direct and/or indirect loss include, inter alia, delays suffered by the Customer, prolongation costs, increased site overheads, increased office overheads, wasted management time, disruption costs, loss of profit, finance charges, loss of bonus, sums paid in settlement of third party claims, costs of claim collation, and the like.

9.5. Under no circumstances shall PSP be liable for;

9.5.1.failure by the Customer to comply with the instructions or advice of PSP; and/or

9.5.2.Goods which have been adjusted, altered, adapted or repaired by any party other than PSP.

9.6. PSP shall not be liable to the Customer (other than liability for death or personal injury resulting from PSP's negligence) for any loss or damage of any nature;

9.6.1.arising from any breach of any express or implied warranty or condition of the Contract; and/or

9.6.2.any negligence, breach of statutory or other duty on the part of PSP; and/or

9.6.3.in any other way under, out of or in connection with the performance or purported performance of or failure to perform the Contract.

9.7. PSP shall not accept responsibility if the Goods are the subject of any patent registered or unregistered design, trademark, copyright or any other industrial or intellectual property rights and the making of the Contract shall be considered as an undertaking by the Customer to indemnify PSP

against any loss in respect of infringement of any such patent registered or unregistered design, trademark, copyright or any other industrial or intellectual property rights of any third party.

9.8. PSP reserves the right to make any changes in the specification of the Goods which may be required to conform to any applicable statutory or EU requirements and which do not materially affect their quality or performance.

9.9. PSP shall not be liable for any failure to deliver the Goods or implement any of these conditions arising from the circumstances outside PSP's control. Non-exhaustive examples of such circumstances include acts of God, war, strikes, fire, embargoes, refusals to grant licences and abnormal weather conditions etc.

10. Cancellation

10.1. Where a Contract is cancelled by a Customer the following payment(s) fall due to PSP by the Customer;

10.1.1. Where cancellation is prior to the commencement of the manufacture of the Goods a sum to compensate PSP for all costs incurred prior to or resulting from such cancellation in addition to such other remedies as it may have.

10.1.2. Where cancellation is subsequent to commencement of the manufacture of the Goods such sum as represents a proportion of the order sum in respect of the manufacture of the Goods performed executed up to the date of receipt of notice of cancellation plus the sum equivalent to 50% of the difference between the proportionate sum and the Price by way of liquidated damages for any actual or anticipated loss or profit and administrative costs in addition to such other remedies as it may have.

11. Damages

11.1. The total liability of PSP to pay damages which may arise under the Contract shall not in any way and in any event exceed a sum equal to the Price payable by the Customer to PSP.

12. Designs and Drawings

12.1. Where designs are prepared by PSP for the Customer's requirement the Terms of the Contract are conditional on such designs having been previously discussed with and fully approved by the Customer.

12.2. Where the Goods are manufactured to design submitted by the Customer, PSP will provide them in conformity with such designs but accept no responsibility for the correct functioning of the Goods.

13. Assignment

13.1. The Contract is between PSP and the Customer and shall not be assigned by the Customer without the express consent of PSP.

14. Insolvency of Customer

14.1. If the Customer makes a voluntary arrangement with its creditors or becomes bankrupt or becomes subject to an administration order or goes into liquidation or an encumbrancer takes possession, or a receiver is appointed or the Customer ceases, or threatens to cease, to carry on business or PSP reasonably apprehends that any of the above mentioned events is about to occur then without limiting any other right or remedy available to PSP, PSP may cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

15. Disputes

15.1. If any dispute arises in connection with this Contract, directors or other senior representatives of the parties with authority to settle the dispute will, within 14 days of a written request from one party to another, meet in good faith effort to resolve the dispute.

15.2. If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the

parties, the mediator will be nominated by CEDR. To initiate the mediation the parties must give notice in writing ('ADR notice') to the other party(ies) to the dispute requesting a mediation. A copy of the request should be sent to CEDR Solve.

15.3. Notwithstanding clause 15.2, either party has the right at any time to refer the dispute to arbitration in accordance with the Arbitration Act 1996 and the CEDR Solve's Arbitration 125 Rules (2011 Edition or as amended), which Rules are deemed to be incorporated by reference to this clause, by an sole arbitrator appointed by CEDR Solve. Nothing in this clause shall prevent any party seeking a preliminary injunction or other judicial relief at any time if, in its judgment, such an action is necessary to prevent irreparable damage.

16. General

16.1. A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to that other party at its registered office or principal place of business.

16.2. No waiver by PSP of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

16.3. If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

16.4. The laws of England and Wales govern this Contract and the resolution of any dispute(s) arising out of or in connection with it shall be subject to the exclusive jurisdiction of the courts of England and Wales

PSP and the Customer agree that these Terms are not enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999