

## **Terms & Conditions of Sale**

### **GENERAL**

(a) These conditions apply to all sales of goods by JFC Group Ltd ("JFC"), or any of its subsidiaries JFC Engineering Ltd ("JFC"), Envosort Ltd ("ENV") or Status & Form Seating Ltd ("SFS"), being the owners of the trading styles of [JFC], [Envosort], [Status & Form Seating] including any other company in which it holds a minority shareholding, also meaning any company within the group acting on behalf of another, ("the Seller") and shall prevail over any other terms or conditions contained or referred to in the Customer's order or in correspondence or elsewhere or implied by trade custom, practice or course dealing unless such other terms or conditions are specifically agreed to in writing by the Seller

(b) The Seller's agents shall not have the authority to enlarge, vary or exclude any of these conditions. Any purported enlargement, variation or exclusion thereof shall be without effect unless specifically agreed to in writing by the Seller and the Customer.

(c) The headings appearing above each condition are included for reference purposes only and shall not effect or limit the interpretation and effect of these conditions.

### **CONTRACT**

(a) A quotation by the Seller shall constitute an invitation to treat and not an offer. The Seller may withdraw or amend any quotation at any time prior to the Seller's acceptance of the Customer's order.

(b) Quotations will remain valid for [one month in JFC & SFS], [three months in ENV], or withdrawal, whichever shall be the earliest.

(c) The contract will only come into existence once the Seller has received and accepted the Customer's order, and will be subject to these conditions. No agent or representative has the authority to vary these conditions or to enter into any contract except on the basis of them. Any terms or representation inconsistent with these conditions will only bind the Seller, if it is in writing and signed by a Director of the Seller.

(d) Unless otherwise agreed in writing by the Seller in (c) above, these conditions will override any terms and conditions stipulated or referred to by the Customer in their order or pre-contract negotiations.

(e) Any description, illustration or specification contained the Seller's catalogues, samples, price lists, or other advertising material is intended merely to present a general picture of the goods and/or services, and will not form a representation or be part of the contract.

(f) Where the Seller has not acknowledged the Customer's order in writing, these conditions will apply to the contract provided the Customer has had prior notice of them.

(g) The Seller reserves the right to correct clerical or typographical errors made by its employees at any time.

### **SPECIFICATIONS AND DESIGNS**

(a) Unless otherwise agreed by the Seller in writing the Seller reserves the right to alter specifications and designs without notice.

(b) If goods are made or services carried out to the Customer's specification, then instruction or design will be the Customer's responsibility. The Customer will indemnify the Seller against any infringement of any patent, design, right, registered design, trademark, trade name or copyright or other intellectual property right and any loss, damage, or expense it may incur because of any such infringement in any country. The Customer will also indemnify the Seller against any loss, damage or expense in respect of any liability arising under the Consumer Protection Act 1987 by reason of the specification or design of the goods and services.

(c) The Seller reserves the right to make any changes in the specification of the goods and/or services which are required to conform to any applicable safety or other statutory requirements.

(d) Where goods and/or services are to be supplied to the Customer's specification, the Seller reserves the right to make any changes in the specification of the goods and/or services which do not materially affect the quality or performance of the goods and/or services.

(e) The Customer will pass on to all parties to whom it may supply the goods, all information as to the use and safe handling of the goods which has been provided to the Customer by the Seller.

#### **ESTIMATES FOR QUANTITIES AND ADVICE AS TO FITNESS FOR PURPOSE**

Any estimates in respect of quantities needed or advice as to the suitability or fitness of any goods for any particular purpose given by the Seller or its servants or agents will be treated as without obligation or responsibility on the part of the Seller and the Customer will be entirely responsible for ascertaining the quantities required and the suitability and fitness of the goods for their purpose.

#### **PRICES**

(a) All prices shall be deemed to be exclusive of (1) Value Added Tax which shall be payable in addition by the Customer at the rate prevailing at the tax point and (2) the cost of packaging and of carriage from the Seller's works which were requested by the Customer shall be payable in addition by the Customer.

(b) The Seller shall have the right at any time and without notice to revise the price payable for the goods sold to take account of increases in costs, including (without limitation) costs of any goods or materials or manufacturing, working on or supplying the goods and/or services, carriage, labour or overheads the increase or imposition of any tax duty or other levy and any variation in exchange rate since the date of acceptance of the order.

(c) The Seller may also increase its prices at any time to take account of any error or inadequacy in any specification, instruction or design provided by the Customer or any modification carried by the Seller at the Customer's request.

(d) If applicable, the cost of pallets and returnable containers will be charged to the Customer in addition to the price of goods. Full credit will be given to the Customer provided they are returned undamaged to the Seller before the due payment date.

#### **DELIVERY**

(a) Delivery dates mentioned in any quotation or acceptance form or elsewhere are approximate only and not of any contractual effect and the Seller shall not be under any liability to the Customer in any respect of any failure to delivery on any particular date or dates, nor shall time be of the essence of any contract. The Seller may defer delivery or completion until any payments due from the Customer have been received. The goods may be delivered by the Seller in advance of any agreed date upon giving reasonable notice to the Customer.

(b) Where the Seller agrees to install the goods at the Customer's premises the Customer shall provide unrestricted access to the installation area and ensure such area is ready in all respects for the installation on such date as may have been agreed between the parties. In the event that the Customer should fail to comply with this provision the Seller shall be entitled to make an additional charge in respect of any costs and expenses incurred in consequence.

(c) Where the Seller has not agreed to install the goods at the Customer's premises, then, unless otherwise agreed in writing by the Seller, the Customer will take delivery of the goods at the Seller's premises [within 28 days for JFC & ENV] [within 4 days for SFS] of receiving notification that they are ready. If the Seller agrees to deliver the goods other than at its premises, the Customer will give the Seller all necessary instructions, and off-loading will be at the Customer's risk and expense. If the contract is an international supply contract, it will be deemed to incorporate the latest edition of 'incoterms' current at the date of contract. If there is any inconsistency between 'incoterms' and any

express term of the contract, the latter will prevail. The Seller will be under no obligation to give the Customer the notice specified in section 32(3) of the Sale of Goods Act 1979.

(d) If the Customer refuses or fails to take delivery of goods tendered in accordance with the contract the Seller shall be entitled to immediate payment in full for the goods so tendered. The Seller shall be entitled to store at the risk of the Customer any goods of which the Customer refuses or fails to take delivery and the Customer shall in addition to the purchase price pay all costs of such storage and any additional carriage incurred as a result of such refusal or failure.

#### **CANCELLATION OR DEFERRAL**

(a) The Seller may in its sole discretion accept or reject the cancellation of any order once such order has been accepted by the Seller.

(b) The Seller will in no circumstances accept the cancellation of any order for goods which are to be specially made or obtained once such an order has been accepted by the Seller nor will any allowance be made in respect of such goods where they are subsequently returned.

(c) Without prejudice to the Seller's right to the full purchase price for the goods and/or services, the Seller will be entitled to damages for any consequential loss due to the determination of the contract, whether it be from any composition or arrangement with its creditors or has a winding-up order made against it or has an administrative receiver or administrator appointed or passes a resolution for winding-up or a court makes an order to that effect or it breaches any of these conditions.

(d) Cancellation by the Customer will only be accepted at the discretion of the Seller, and only binding if in writing and signed by a Director. Any costs or expenses incurred by the Seller up to the date of the cancellation and all loss or damage resulting from the cancellation will be paid by the Customer to the seller forthwith.

#### **TERMS OF PAYMENT**

(a) Credit accounts may be opened, subject to satisfactory credit references being obtained, in the Seller's sole discretion. Payment for goods supplied on a credit account shall become due and payable not later than 30 days after the date of invoicing the goods (inclusive of the date of invoice). In the event of there being any default by the Customer in making payment as aforesaid the entire balance of the said account shall be payable forthwith and the Seller shall be entitled to charge interest thereon in accordance with sub-clause (d) hereof.

(b) For all other transactions quotations will be for cash with order. If cash is not paid with the order, the Seller shall have the right to require cash on delivery.

(c) The Customer shall not be entitled to withhold or set off payment of any amount due to the Seller under the terms hereof whether in respect of any claim by the Customer, in respect of goods supplied by the Seller or for any other reason which is contested or for which liability is not admitted by the Seller.

(d) Without prejudice to the Seller's right to enforce payment, if the Customer fails to make payment as herein before provided the Seller shall be entitled to charge interest on any balance outstanding from the date the same became due for payment until payment is made at the same rate of 4% per annum above Barclays Bank Base Rate.

(e) Interest shall become due and payable pursuant to the foregoing clauses notwithstanding the fact that a portion of the account be subject of any dispute or query.

(f) If in the case of any sale involving more than one delivery default is made in payment on the due date, the Seller shall have the right forthwith to suspend any further deliveries until payment or by notice in writing to the Customer to terminate the contract in its entirety, whether or not the same is severable.

(g) If at any time the Customer (being an existing credit customer) being a company shall after its constitution or being a sole trader or partnership shall become incorporated or amalgamated with others, it shall be the duty of the Customer to give prior written notice to the Seller of the intended change (should the Customer wish to continue credit account facilities following any intended change). Continuance of trading with the amalgamated entity or commencement of trading with the new entity shall be in the sole discretion of and only deemed undertaken by the Seller if a written acknowledgment and acceptance is issued by the Seller's Credit Controller or Seller's Director.

(h) Time for payment will be of the essence of the contract.

#### **RISK**

(a) Except for international supply contract, and unless otherwise agreed in writing, the risk in the goods shall pass to the Customer upon delivery.

(b) The Seller will not be liable for any loss of or damage to any goods left with the Seller. This provision will apply whether or not the loss or damage is attributable to the Seller's or its servants' or agent's negligence or wilful default.

#### **TITLE TO GOODS**

Until the Seller has been paid in full the price of the goods and the cost of carriage and packaging together with any interest and charges thereon:-

(a) Ownership of the goods shall remain in the Seller, and the Customer shall hold the goods as bailee and fiduciary owner for the Seller.

(b) The Customer has a right to sell and deliver the goods to third parties in the ordinary course of his business, acting towards such third parties as a principal and not as the Seller's agent, but it hold all proceeds of sale on trust for the Seller in a separate bank account, the Customer hereby assigning to the Seller all rights and claims which the Customer may have against its customers arising from such sales until full payment is made as aforesaid.

(c) The Customer shall if required by the Seller store the goods in such a way as clearly to show the Seller's ownership of them.

The Customer shall notify the Seller immediately upon demand by the Seller of the place or places where the goods are situated.

The Customer shall afford to the Seller access to the goods during all normal business hours whether they are upon premises occupied or owned by the Customer or its customers and the Customer shall deliver the goods up to the Seller at its request and allow the Seller to remove the same. For its purpose, the Customer grants an irrevocable right and license to the Seller's servants or agents to enter upon the said land with or without vehicles during normal business hours.

#### **SELLER'S LIABILITY**

(a) Save in the case of contracts falling within the description of contract in section 26(3) of the Unfair Contract Terms Act 1977 the Seller does not exclude liability for death or personal injury to the extent that it results from the negligence of the Seller, its servants or agents, and accepts liability for any breach on its part of any undertaking as to title implied by section 12 of the Sale of Goods Act 1979 or by section 8 of the Supply of Goods (Implied Terms) Act 1973.

(b) The Seller does not accept liability for shortages in quantities delivered unless the Customer notifies the Seller or carrier in writing of any claim for short delivery of goods [within 3 days for JFC or ENV] [within 24 hours for SFS] of the delivery to the Customer or to the Customer's instructions. In such circumstances the Seller's liability shall be restricted to making good the shortage, save that in the case of orders made to the Customer's special requirements it shall be under no such liability where the shortage is not more than 2% of the quantity ordered.

(c) The Seller agrees to repair or replace free of charge or refund, any goods which in the sole opinion of the Seller, are defective due to a manufacturing fault, but only if the same is reported to the Seller in writing [within 21 days for ENV], [within 24 hours for SFS], [within 14 days for JFC] of despatch of the goods to the Customer or the Customer's order, provided that where the Customer is a dealer in the goods the Seller will not be responsible either for the cost of removing any defective goods from any place where they are installed or affixed (or for making good the said place after removal) or for the cost of installing or affixing in such place any repaired or replacement goods unless the same shall have been previously agreed in writing with a Director of the Seller, and provided further that in all other cases the Seller shall have the rights in its discretion to inspect and repair the goods at the Customer's premises or at its own premises. Where the Seller agrees to repair or replace goods, any time specified for delivery under the contract will be extended for such period as the Seller may reasonably require.

(d) Save as aforesaid, all liability for any representations whether oral or in writing and all guarantees, conditions or warranties whether expressed or implied by statute, common law or otherwise is hereby excluded, and the Seller shall not be liable for any loss (including consequential loss) damage or delay or expense of any kind whatsoever and howsoever caused (including by the negligence of the Seller its servants or agents).

(e) The Seller's liability, if any, in respect of any defect in or failure of goods supplied or services provided is limited to replacing or (at its option) repairing or paying for the repair or replacement of the goods supplied which are found to be defective by reason of faulty or incorrect design, workmanship, parts or materials and carrying out, again, any services which it has failed to perform properly in accordance with the contract.

(f) Save as to the matters set out in (a) above in respect of which the Seller does not exclude or accepts liability, the Customer acknowledges and agrees that it is able (if it so wishes) to insure against the risk of any loss (including consequential loss) damage or delay or expense of any kind whatsoever and however caused (including by the negligence of the Seller its servants or agents).

(g) The Customer shall indemnify the Seller against any liability which the latter may incur (whether as a result of or in connection with court proceedings or under the terms of bona fide out of court settlement) as a result of a claim against the Seller under Part 1 of the Consumer Protection Act 1987 in respect of an alleged defect in the goods.

(h) The Seller's liability for any direct loss or damage sustained by the Customer as result of any error in any weight, dimension, capacity or performance or other description or information which has formed a representation or is part of the contract will not exceed the price of the goods and/or services.

(i) The Seller will not be liable to the Customer for any damage or for any direct or consequential loss incurred by the Customer in consequence of any negligence on the part of the Seller or negligence or wilful default on the Seller, its servants or agents in or connection with the supply of any goods or the design or manufacture thereof or in the carrying out of any services or the provision of any information.

#### **QUANTITIES DELIVERED**

In the case of orders made to the Customer's special requirements the Customer shall be obliged to accept as a due performance of the Seller's obligations under the contract delivery of a quantity of goods up to 2% more or less than the quantity ordered.

#### **SAMPLES**

Unless otherwise agreed by the Seller in writing, the Customer shall be liable to pay for all samples requested by the Customer.

### **RETURN OF GOODS**

- (a) Goods are not sold on a 'sale or return' basis.
- (b) For ENV and SFS goods only, and if agreed in writing by a Director, the Seller may in its sole discretion accept or reject the return of any goods which have been incorrectly ordered. The Seller will accept the return of standard (non-bespoke) products within 21 days of despatch, by mutual agreement. Standard products shall be returned to the Seller's address in the original packaging at the Customer's expense and a handling charge of 20% will be applied to all products returned. Alternatively the Seller will arrange collection on behalf of the Customer at a charge of £30 per consignment or £63 per pallet plus a handling charge of 20%. Returned products must be in perfect working condition in order to be credited. If the product is not what the Customer ordered and/or the product delivered is not of a satisfactory quality, the Seller will, at its discretion, deliver to the Customer a replacement product or refund the invoice price paid and any reasonable costs incurred by the Customer in returning the goods.

### **INSTALLATION, TESTING OR SERVICING**

- (a) If under the contract, the installation, testing or servicing of any equipment is to be carried out by or under the supervision of the Seller, the Customer warrants that it will make all necessary preparation to the site by such date as may be specified in the contract or reasonably required by the Seller; and furthermore commits that it will provide suitable access to and possession of the site, suitable protection of goods from the time of delivery and all facilities required to enable the seller to perform its obligations.
- (b) The Seller will indemnify the Customer in respect of any direct damage to property caused in the course of installation, testing, servicing or repair by the negligence of the Seller or the negligence or wilful default of its servants or agents provided that the Seller's liability hereunder shall not exceed the price payable under the contract.
- (c) The Seller reserves the right to sub-contract the installation of goods or the performance of any other services required under the contract.

### **FORCE MAJEURE CLAUSE**

The Seller shall be under no liability for any loss (including consequential loss) damage or delay or expenses of any kind whatsoever caused wholly or in part by act of God, outbreak of war, civil commotion, governmental policies or restrictions or control, including restrictions of export or import or other licences, trade or industrial disputes of whatever nature, whether or not such dispute involves the Seller, its servant or agents, or by any other contingency whatsoever which is beyond the control of the Seller.

### **LIEN**

The Seller shall in respect of all overdue accounts have a general lien upon any goods of the Customer in the Seller's possession and shall after the expiry of 14 days notice to the Customer be entitled to dispose of such goods as it deems fit and apply the proceeds towards such overdue accounts.

### **TRADEMARKS**

- (a) Unless otherwise agreed in writing by the Seller, the Seller's trademarks and intellectual property rights are protected by law and may not be used by the Customer.
- (b) All documents of the Seller, together with intellectual property rights contained therein, shall remain the exclusive property of the Seller, and must not be copied or loaned or transferred or dealt with in any way without the prior written consent of the Seller.
- (c) Unless otherwise agreed in writing by the Seller, all copyright, design rights, registered design rights, trademarks, trade-names, know how and other intellectual property rights in the goods and/or

services originated by or on behalf of the Seller are the property of and shall remain vested in the Seller. Without prejudice to the generality of the foregoing, all property and copyright in any software supplied by the Seller shall remain vested in the Seller or its Licensor.

#### **NON WAIVER OF RIGHTS**

The failure of either party to the contract to exercise or enforce any rights conferred by the contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

#### **NOTICE**

Any notice hereunder shall be in a permanent readable form and shall be deemed properly delivered if addressed to the party concerned as its principal place of business or last known address.

#### **APPLICABLE LAW AND JURISDICTION**

- (a) The contract shall be governed by English law.
- (b) The courts of England and Wales shall have jurisdiction over all disputes however arising out of or in connection with the contract, and in the case of any claims made by the Customer such jurisdiction shall be exclusive.
- (c) If any provision of these conditions becomes illegal or void for any reason, the validity of the remaining provisions shall not be affected.
- (d) Failure by the Seller to enforce strict compliance with these conditions by the Customer will not constitute a waiver of any of the conditions.