

## **ECOCHOICE LIMITED**

### **TERMS AND CONDITIONS**

#### **1. Interpretation**

1.1. In these Conditions:-

**"Customer"** means Ecochoice Limited, a company registered in England and Wales under number 05659260 and whose registered office is at Compass House, Chivers Way, Histon, Cambridge, England, CB24 9AD;

**"Conditions"** means the standard terms and conditions of purchase as set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Supplier;

**"Contract"** means the contract for the sale and purchase of the Goods incorporating these conditions;

**"Delivery Point"** the Supplier's Premises or, when transport is included such other location as the Customer specifies on the Order Form

**"Delivery Note"** a document produced by the Supplier or the appointed carrier of the Goods to the Customer at the Delivery Point.

**"Delivery Date"** means the date agreed with Ecochoice Ltd., when the Goods are to be delivered;

**"Goods"** means the product which the Supplier is to supply in accordance with these Conditions;

**"Incoterms"** means the 2010 edition of the official International Chamber of Commerce rules for the interpretation of trade terms;

**"Order"** means an Order for Products submitted by the Customer

**"Person"** means any individual, firm, company or other legal entity or undertaking

**"Supplier"** means the person who sells or agrees to sell the Goods in the course of trade to the Customer named in the Contract;

**"Writing"** includes letters and fax and may also include email where the recipient acknowledges receipt.

1.2. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.6. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

#### **2. Basis of the Purchase**

2.1. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2. No variation of these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Customer and the Supplier.

#### **3. Orders and Specifications**

3.1. Upon receipt of a purchase Order submitted by the Customer, the Supplier shall confirm acceptance of the Order to the Customer in writing.

3.2. The Customer shall ensure the accuracy of the terms of any Order submitted and shall specify the type and quantity of the Goods.

3.3. The quantity, quality and description of and any specification for the Goods shall be those set out in the purchase Order and all applicable statutory requirements of the country of import.

3.4. Subject to delivery not taking place, the Customer may at any time within 14 days of placing an Order amend or cancel an Order by written notice to the Supplier without incurring any liability.

3.5 If the Customer amends or cancels an Order after these 14 days, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Order up until the date of deemed receipt of the amendment or cancellation, except that where the amendment or cancellation results from the Supplier's failure to comply with its obligations under this agreement the Customer shall have no liability to the Supplier in respect of it.

#### **4. Price of the Goods**

4.1. The price of the Goods shall be the Supplier's quoted price.

4.2. The price is exclusive of any applicable UK value added tax which the Customer shall be additionally liable to pay to the Supplier, on receipt of a valid VAT invoice from the Supplier.

#### **5. Quality and Packing**

5.1. The Products supplied to the Customer by the Supplier under this agreement shall:

a) conform to the Specification;

b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer;

c) comply with all applicable statutory and regulatory requirements.

5.2. The Supplier shall ensure that the Products are properly packed and secured in such manner as to enable them to reach their destination in good condition.

5.3. The Supplier shall obtain and maintain in force all licences, permissions, authorisations, consents and permits needed to supply the Goods in accordance with the terms of this agreement.

5.4. The Supplier shall comply with all applicable laws, enactments, Orders, regulations and other instruments relating to the raw materials, packing, packaging, marking, storage, handling, and delivery of the Goods.

#### **6. Payment**

6.1. The Supplier shall invoice the Customer for the price of the Goods on or at any time after Delivery.

6.2. The Customer shall pay correctly rendered invoices at the end of the month following the month in which they were received. Payment shall be made to the bank account nominated in writing by the Supplier.

6.3. All amounts referred to in these terms shall be exclusive of value added tax, any similar sales tax or any tax that replaces such sales tax. Any such tax payable in relation to such amounts shall be paid in addition to those amounts.

6.4. If the Customer disputes any invoice or other statement of monies due, the Customer shall immediately notify the Supplier in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within 30 days of the Customer giving notice to the Supplier, the dispute shall be resolved in accordance with clause 12. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in clause 6.2. The Supplier's obligations to supply the Goods shall not be affected by any payment dispute.

#### **7. Delivery**

7.1. The Supplier must deliver the Goods at the Delivery Point.

7.2. The Supplier must deliver the Goods on the agreed date or within the agreed period.

7.3. The Supplier must give the Customer the Delivery Note to enable the Customer to take delivery of the Goods.

7.4. Delivery of an Order shall be complete by the Supplier upon loading the products ordered on the means of transport provided by the Customer; or when transport is

included, by having the products unloaded at the address designated by the Customer.

7.5 If an Order is not delivered on the specified Delivery Date, then, without limiting any other right or remedy the Customer may have, the Customer may:

- (a) refuse to take any subsequent attempted delivery of the Order;
  - (b) terminate this agreement with immediate effect;
  - (c) obtain substitute products from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Customer in obtaining such substitute products; and
  - (d) claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver the Order on the Delivery Date,
- provided that the Supplier shall have no liability for any failure or delay in delivering an Order to the extent that such failure or delay is caused by the Customer's failure to comply with its obligations under this agreement.

## **8 Licenses**

8.1 Where applicable, it is up to the Customer to obtain, at its own cost, any import licence or other official authorisation and carry out all customs formalities for the import of the Goods and for their transport through any country.

## **9 Risk and Property**

9.1 Risk of damage to or loss of the Goods shall pass to the Customer at the time of Delivery.

9.2 Title to the Goods shall pass to the Customer on Delivery.

## **10 Insurance**

10.1 At the Customer's request the Seller must provide the Customer with information the Customer needs to obtain insurance for the Goods.

## **11. Force Majeure**

11.1. **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, 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; and
- (i) interruption or failure of utility service.

11.2 Provided it has complied with Clause 11.3 if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement 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.

11.3 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 7 days from its start, 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 agreement; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

11.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 1 month, the party not affected by the Force Majeure Event may terminate this agreement by giving 7 days written notice to the Affected Party.

## **12 Dispute Resolution**

12.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause.

12.2 The Supplier and the Customer shall negotiate in good faith and use their best efforts to settle amicably any dispute that may arise out of or relate to this agreement or a breach thereof. If such negotiation fails to result in settlement then unless the parties otherwise agree, the dispute shall be referred to a single arbitrator, the identity of whom shall be agreed between the parties and or in the absence of agreement (on the application of either party) by an arbitrator appointed by the President for the time being of the UK Timber Trade Federation. The arbitration shall be conducted under the Arbitration Act 1996 or any amendment or re-enactment thereof. The seat of the arbitration shall be London England and the language of the arbitration shall be the English language.

12.3 Arbitration is without prejudice to the rights of the parties to the injunctive relief or to the rights of the parties in any future proceedings.

12.4 If the Dispute is not resolved through arbitration, or either party fails to participate or to continue to participate in the arbitration the Dispute shall be finally resolved by the courts of England and Wales.

## **13. Termination**

13.1 The Customer may terminate the Contract in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

13.2 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

## **14. General**

14.1. For the purposes of The Contracts (Rights of Third Parties) Act 1999, these conditions do not create any right or remedy enforceable by any person other than the Customer, the Supplier and del credere agent (if applicable). This condition does not affect any right or remedy of a third party that exists or is available apart from that Act.

14.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing, and in the English language, addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

14.3 No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

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

14.5 The Contract shall be governed by the laws of England and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

14.6 The international rules for the interpretation of trade terms prepared by the International Chamber of Commerce (Incoterms) shall apply but where they conflict with this agreement, this agreement shall prevail.