

**STANDARD CONDITIONS OF SALES OF FIBATEK LIMITED.**

**1. DEFINITIONS AND INTERPRETATIONS**

- 1.1 "The Company" shall mean Fibatek Limited.
- 1.2 "The Customer" shall mean any person, partnership, unincorporated business or incorporated company to whom the Company agree to sell Goods or Services.
- 1.3 "Goods" Shall mean the Good (including any instalment of the Goods or any parts of them) which the Company is to supply in accordance with these conditions
- 1.4 "Services" shall include any design or other Services to be provided by the Company pursuant to the contract whether in relation to the supply of Goods or otherwise and where the Contract is for or includes work or work and materials, the supply of labour.
- 1.5 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.
- 1.6 The singular shall include the plural and male shall include the female and vice versa.
- 1.7 The Headings in these conditions are for convenience only and shall not affect their interpretation.

**2. FORMATION OF CONTRACT**

- 2.1 All orders and Contracts shall be in writing. The Company is not willing to contract otherwise than on these conditions which shall be deemed to be incorporated into any order accepted by the Company whether or not it is based upon or results from any advertisement, quotation or catalogue to the exclusion of any terms of the Customer insofar as the same are inconsistent herewith. No modification of these conditions shall be effective unless the same is in writing and signed by a Director or Authorised Signatory of the Company.
- 2.2 If a contract has not been concluded between the Company and the Customer within a period of ninety days from the date of the quotation the Company reserves the right to re-quote for such Goods and Services and the Company may at its discretion refuse to accept any order which constitutes part only of the Goods or Services forming the subject of a quotation.
- 2.3 Any quotation shall be regarded as an invitation to treat and no order arising out of the quotation shall be accepted save by an acknowledgement in writing signed by a Director or Authorised Signatory on behalf of the Company.
- 2.4 Unless made by the Company in writing The Company's employees or agent are not authorised to make any representations. In placing an order the Customer acknowledges that it does not rely on and waives any claim for breach of any representations other than those made in writing by the Company.
- 2.5 Any advice or recommendation given by the Company or its employees 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 the Company is followed or acted upon accordingly the Company shall not be liable for any such advice or recommendation which is not confirmed.

**3. PRICE**

- 3.1 Unless otherwise stated in the quotation or acceptance by the Company all prices quoted are in Pounds Sterling on an ex works basis and are exclusive of any applicable value added tax for which the Customer shall be additionally liable and where the Company agrees to deliver the Goods and/or package the same the Customer shall be liable to pay the Company's charges for transport packing and insurance.
- 3.2 Prices quoted are based upon the cost of labour and materials at the date of the quotation and the Company reserves the right to invoice at prices based on extra costs incurred as a result of any increase in the cost of labour or materials between the date of the quotation and the date of the delivery it is a term and condition of the Contract that local wage agreements are recognised as a basis for the calculation of any increase in labour costs.
- 3.3 The rates and prices given in the quotation are not subject to any discount, whether trade or cash, except such as may be expressly specified in the quotation.

**4. EXTRA COSTS**

- 4.1 In the event of:-
  - 4.1.1 The Company suspending work on any Contract or order upon the instructions of the Customer or because the Customer fails to give such information or instructions to the Company as it may reasonable require in order to perform the Contract, or as a result of any breach on the Customer, or
  - 4.1.2 The Company at the request of the of the Customer agreeing to any departure from or variation to the Contract specification upon which the quotation was based or,
  - 4.1.3 The Company require to carry out any additional work or provide additional or alternative materials as a result of inadequate detail provided in the specification during the course of the progress of any work or,
  - 4.1.4 Forwarding instructions being withheld when the Goods are ready for delivery and the Customer has been notified to this effect by the Company or, Then in addition to the Contract price the customer shall be charged at the current charging rate of the Company for all extra work and for any increase in the cost of insurance storage or demurrage or for any other disbursements or out of pocket expenses including costs reasonably incurred by the Company as a result of the suspension departure variation or delay provided always that if collection of the goods has not taken place or forwarding instructions for delivery been given within fourteen (14) days of notification that the Goods are ready for collection or delivery (as the case may be) the Customer shall pay forthwith to the Company the balance of the Contract sum.

**5. DESIGNS AND SPECIFICATIONS**

- 5.1 The Company reserved the right at any time and without prior notice to the Customer to make any modification in design or specification of its Goods if the Company in its absolute discretion considers that such modification is beneficial.
- 5.2 The information regarding the Company's products contained in any advertisements catalogues, price lists, illustrations, drawings or other similar matter submitted to the Customer by the Company is given in good faith and must be regarded only as approximate and intended to present to the Customer a general guide or illustration of the Goods, or Services available. The customer shall rely upon his own judgment as to the nature and the quality of the Company's products and their suitability for his purpose to the exclusion of any representations howsoever made by the Company its servants or agents.
- 5.3 In the event of any inconsistency between drawings and specifications the terms of the letter shall prevail.
- 5.4 Specified dyes or yarns are supplied subject to the usual trade conditions applied by the manufacturers or suppliers of such materials.

**6. DELIVERY**

- 6.1. Where it has been agreed that the Goods will be delivered to the customer:
  - 6.1.1 Nothing herein shall preclude the Company from arranging for the delivery of the Goods to the customer in advance of the indicated delivery date.
  - 6.1.2 Delivery shall be to the destination specified by the Customer in the order. The Company shall not be bound to deliver to any other destination but in the event of any agreement to deliver to any alternative destination the Customer will be charged for any increased costs thereby incurred in addition to the Contract price.
  - 6.1.3 Delivery dates (where given) are quoted in good faith by the Company and are based upon the date of receipt of the order.
  - 6.1.4 Goods should be examined immediately upon arrival and any apparent damage or shortages shall be reported in writing or by facsimile or telex to the Company and to the carriers so that notification is received no later than 48 hours after delivery. The Customer shall indemnify the Company against any loss suffered because of its inability to claim against the carriers as a result of the breach of this provision by the Customer.
  - 6.1.5 The Customer shall have a period of fourteen (14) days following delivery in which to examine the goods and to notify the Company in writing of any intention to reject them upon grounds which they are alleged to be defective. If this period expires without the Company receiving any intimation of rejection the Customer will be deemed to have accepted the goods according to section 35(1) of the Sale of Goods Act 1979 and will therefore be bound to pay for them.
  - 6.1.6 Delivery shall be deemed to have taken place when the customer takes possession of the goods.
  - 6.1.7 Whilst the Company will make every possible effort to meet delivery dates, it will not in any circumstances be liable for any failure to do so, nor for any consequential loss of any kind arising from late delivery.
- 6.2 Where the Customer requires the Goods to be exported. The Contract shall be (free on board) f.o.b. but the responsibility of the Company shall cease immediately that the Goods are placed on board ship and the Company shall be under no liability to give the Customer the notice specified in section 32(3) of the Sale of Goods Act 1979

**7. SALE BY SAMPLE**

- 7.1 In accordance with clause 6.1.5 above the Customer shall have a period of fourteen (14) days following the delivery in which to notify the Company in writing of any alleged discrepancy between the sample and the bulk. The absence of any such notification will constitute acceptance of the bulk

**8. FORCE MAJEURE**

In the event that the Company shall be delayed in or prevent from carrying out any of its obligations under a Contract for the sale of Goods or performance of Services as a result of any cause beyond its control including (but not by way of limitation) war invasion hostilities and civil war strife or commotion strikes lock-outs breakdown of plant failure of third party to deliver Goods or materials storm flood fire or any other cause the Company shall be at liberty at its election to suspend the Contract in which case it shall be relieved of all obligations and liabilities incurred under such Contract insofar as and for so long as the fulfilment of such obligations and liabilities is thereby prevented frustrated or impeded or to cancel the Contract without incurring any further liability whatsoever.

**9. TERMS OF PAYMENT**

- 9.1 In all cases payment shall be strictly made within Thirty (30) days of the date of the invoice. If the Customer is in default of this condition the Customer shall in addition pay interest upon the balance outstanding calculated on a daily basis at 5% above the Natwest Bank Lending Rate from time to time in force from the date of default until the date that payment is received.
- 9.2 Extra costs shall be paid when invoiced by the Company.
- 9.3 In the case of orders outside the United Kingdom payment should be made by Letter of Irrevocable Credit but in all other cases payment should be made by Bankers Draft.
- 9.4 In the event of the Customer failing to comply with the provisions for payment contained in the preceding sub-clauses or in the event of any dispute or delay in payment or retention made by the Customer this shall be regarded as a breach of condition and the Company shall be entitled to treat such failure as a repudiation of the Contract and of all other Contracts between the Company and the Customer and without prejudice to all other rights of the Company to claim damages or other relief, the Company may without notice suspend all further deliveries to the customer in relation to the Contract concerned or any other Contract without liability to the Customer for any loss or damage howsoever arising.

**10. WARRANTIES**

- 10.1 Subject to the conditions set out below the Company warrants that the Goods or Services will correspond with their specification at the time of delivery or supply are of merchantable quality and will be fit for the purposes for which they are commonly bought. The purposes for which they have been designed. The company does not give warranty as to fitness for any other purpose whether or not such purpose shall have been made known to the Company
- 10.2 The above Warranty is given by the Company subject to the following conditions:
  - 10.2.1 The Company shall be under no liability in respect of any defect arising from fair wear and tear wilful damage negligence abnormal use or application failure to follow the Company's instructions (whether oral or in writing) mis-use or alteration of the Goods.
  - 10.2.2 The Company shall under no liability under the above Warranty (or any other Warranty condition or Guarantee) if the total price for the Goods or Services has not been paid by the due date for payment.
- 10.3 Subject as expressly provided in these Conditions and except where the Customer is dealing as a consumer (as defined by the Unfair Contract Terms Act 1977) all warranties Conditions or other Terms applied by Statute or Common Law are excluded to the fullest extent of the permitted law.
- 10.4 Where the Customer is dealing as a Consumer (as defined by the unfair Contract Terms 1977) the Statutory rights of the consumer are not affected by these Conditions.



- 10.5 Any claim by the Customer which is based on any defect in the Condition of the goods or in the quality of the Goods or Services or their failure to correspond with specifications shall (whether or not delivery is refused by the Customer) be notified to the Company in writing specifying the defect or failure to alleged within Fourteen (14) days from the date of delivery or supply failing which the Customer shall not be entitled to reject the Goods or Services and the Company shall have no liability for such defect or failure and the Customer shall be bound to pay the price as if the goods or Services have been delivered or supplied in accordance with the Contract.
- 10.6 Where any valid claim in respect of any of the Goods or Services which is based on any defect in the quality or condition of the Goods or Services or their failure to meet specification is notified to the company in accordance with these conditions the Company shall be entitled to replace the Goods (or the part in question) or perform any work of rectification free of charge or at the Company's sole discretion refund to the customer the price of the Goods or Services (or a proportionate part of the price) but the Company shall have no further liability to the Customer.
- 10.7 Except in the respect of death or personal injury caused by the Company's negligence the Company shall not be liable to the Customer by reason of any representation or any implied warranty conditions or other term or any duty of Common Law or under the expressed term of the Contract for any consequence or loss or damage (whether for loss or profit or otherwise) costs expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Company its employees or agents or otherwise) which arise out of or in connection with the provision of the Goods and Services or in the use or resale of the Goods by the Customer except as expressly provided in these conditions.
- 10.8 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason or any delay in performing or any failure to perform any of the Company's obligations in relation to the Goods and Services if the delay or failure was due to any cause beyond the Company's reasonable control.

**11. LIMITATION OF LIABILITY**

- 11.1 The limit of the Company's liability hereunder for any breach of the terms of these conditions whether as damages or otherwise shall be the Contract price of the Goods and Services.
- 11.2 The Company shall not be responsible for the design or specification of the Goods ordered by the Customer unless expressly agreed by the Company.

**12. PATENTS AND DESIGNS**

- 12.1 The Company shall not be liable in respect of any claim that may be made against the Company for infringement of any letters patent copyright or registered design, which may arise as a result of the Company carrying out instructions (whether for product modification or otherwise) given by the Customer and the Customer agrees to keep the Company fully indemnified from and against all claims costs demands damages and expenses howsoever incurred in respect of any such claims.
- 12.2 Save where otherwise expressly agreed the Customer shall be permitted to leave a visible trade-mark on its goods.
- 12.3 Drawings, specifications, samples and prototypes prepared for on behalf of the Company for use in any Contract shall remain the property of the Company and shall not be copied or reproduced in any way without prior permission of the Company first had and obtained not shall the Customer divulge it or permit it to be reproduced to any third party.
- 12.4 Where drawing specification samples or prototypes are delivered to the Company by the Customer for use in connection with any order the Company shall be entitled to exercise a general lien over the same until all sums owing to the Company by the Customer have been paid.

**13. RETENTION OF TITLE**

- 13.1 Legal and beneficial title to the Goods shall remain with the company until such time as the company has received payment of the purchase price of any other goods or services previously or subsequently supplied by the company to the customer whereupon such title shall pass to the customer.
- 13.2 Until title of the Goods has passed to the Customer as bailees for the company shall keep them separate and distinct from any other Goods in the Customer's possession and identifiable as being the property of the Company.
- 13.3 The Customer shall permit the Company at any time during normal working hours upon request forthwith to enter any premises of the Customer to ensure that the Customer is complying with Clause 13.2 and will forthwith at its own expense implement any reasonable instructions of the Company necessary to secure compliance.
- 13.4 Until such time as the title and ownership of the Goods passes to the Customer, the Customer may in the ordinary course of business use or sell the Goods before the property has passed but shall hold the benefit of any such Contract for sale on trust for the Company to the extent of the Company's price (including any incidental costs and expenses) and shall accordingly account to the Company for such amount of the proceeds of the sale on receipt.
- 13.5 Such sums as and when received by the customer shall be paid into a separate banking account unmixed with monies of the Customer and the Customer will upon request supply the Company with full particulars of the operation of such Account.
- 13.6 The power of the Customer to use or sell the goods shall cease:
  - 13.6.1 Forthwith upon notice (whether written or oral) by the Company given at any time after the Customer shall have been paid in default for more than Seven days in payment of any sum whatsoever due by the Customer to the Company.
  - 13.6.2 If the Customer is a Company, automatically upon the happening of any of the following events:
    - 13.6.2.1 The appointment of a Receiver or Manager (including an Administrative receiver)
    - 13.6.2.2 The convening of a meeting for the purposes of the voluntary winding up (other than for reconstruction or amalgamation)
    - 13.6.2.3 The presentation of a petition to wind up the Customer or for an Administration order under the Insolvency Act 1986
    - 13.6.2.4 The summoning of a meeting under Section 3 of the Insolvency Act 1986 or otherwise for the purpose of proposing any arrangement or composition with creditors.
  - 13.6.3 If the Customer is an individual or a firm, automatically upon the happening of the following events.
    - 13.6.3.1 If the Customer commits an act of bankruptcy or if a bankruptcy petition is presented under an Insolvency Act 1986.
    - 13.6.3.2 If the Customer applies for an Order under Section 253 of the Insolvency Act 1986 or calls a meeting for the purpose of making any arrangement or composition with creditors.
- 13.7 After the power to use or sale has ceased the Customer will deliver up the Goods to the Company and hereby authorises the Company to enter any premises of the Customer for the purpose of finding and/or taking delivery of the same.

**14. PASSING OF RISK**

Notwithstanding that title to the Goods may not have passed the Goods are at the entire risk of the Customer from the date that the same are in a deliverable state.

**15. ARBITRATION**

In the event of any dispute arising out of these terms and conditions of sale, the parties hereto undertake to make every effort to reach an amicable settlement. Failing such settlement, the dispute shall be referred to the Arbitration in London of a single Arbitrator to be agreed upon by the parties hereto or, in default of agreement for 28 days, to be appointed by the president for the time being of the International Chamber of Commerce, upon the application of either party. Such Arbitrator shall have the powers conferred upon him by the Arbitration Act 1950, or any statutory amendment or re-enactment thereof for the time being in force, and his decision will be final and binding upon both parties.

**16. SUSPENSION OF DELIVERY**

Without prejudice to any other rights that the Company may have for the damages for breach of Contract or otherwise against the Customer the Company shall be entitled in the event of the Customer having made any arrangements with its creditors ceased to trade or stop payment of its debts or suffered a receiver to have been appointed over any of its assets or undertaking or shall have suffered any execution or distress to be levied upon any of its assets or failed to satisfy any judgment debt within seven (7) days of the same becoming payable, to suspend all further deliveries under any Contract between the Customer and the Company.

**17. WAIVER**

It is hereby confirmed that the rights of the Company shall not be diminished or waived by any indulgence or forbearance extended to the Company and no waiver by the Company of any specific breach on the part of the Customer shall operate as a waiver of any breach.

**18. TERMINATION**

All Goods ordered are purpose made and accordingly no order which has been accepted by the Company may be cancelled by the Customer except with the arrangement in writing of the Company and on the terms that the Customer shall indemnify the Company in full against all losses (including loss of profit) costs (including the cost of all labour and materials used) damages charges and expenses incurred by the Company as the result of the cancellation.

**19. ASSIGNMENT**

The benefit of the Contract shall not be capable of assignment by the Customer without the consent in writing of the company.

**20. NOTICES**

Any notices required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its Registered Office or principal place of Business or such address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

**21. CONSTRUCTION AND CHOICE OF LAW**

- 21.1 There conditions shall be construed in accordance with the Laws of England and Wales whose Courts shall have sole jurisdiction over all matters arising hereunder.
- 21.2 Each of the provisions contained herein and in each Clause and Sub Clause Hereof shall be construed as independent of every other such provision to the effect that if any of the Provisions to any person firm or company or to any circumstances shall be determined to be invalid and unenforceable then such determination shall not affect any other Provision herein or the application of such other Provision to any person firm company or circumstances all of which other provisions shall remain in full force and effect.
- 21.3 In the event that any provision contained herein shall be held to be invalid or unenforceable by a Court of law or other Company Authority in a way which in the sole opinion of the Company materially adversely affects the right of the Company to receive any payment due to it hereunder or the Terms on which the Company supplies Goods or Services to the Customer then and in any such case the Company may without liability terminate this and all other Contracts with the Customer by Notice in writing to the Customer and in the event the Customer shall indemnify the Company in full against all losses (including loss of profits) costs (including the cost of all labour and materials used) damages and expenses incurred by the Company as the result of such termination.
- 21.4 In the event that any of the Provisions herein shall be found to be void, but would be valid if some part were deleted, such Provision shall apply with such modification as may be necessary to make it valid and effective.

Signed on behalf of the customer: \_\_\_\_\_ Print Name: \_\_\_\_\_

Capacity of Signatory: \_\_\_\_\_ Date: \_\_\_\_\_