

QD Commercial Group Holdings Ltd

Terms and Conditions of Purchase

1. Definitions and Interpretation

1.1 In these terms and conditions the following words will have the following meanings:

“Buyer” means QD Commercial Group Holdings Ltd.

“Supplier” means the person, firm, or company to whom the Order is issued.

“Contract” means the contract between the Supplier and the Buyer for the sale and purchase of the Goods.

“Goods” means any goods supplied or to be supplied by the Supplier to the Buyer.

“Order” means any purchase order of the Buyer for the Goods, incorporating these terms and conditions.

1.2 The headings in these terms and conditions are for convenience only and shall not affect or limit their interpretation.

2. Basis of Purchase

2.1 The Order is an offer by the Buyer to purchase the Goods subject to these terms and conditions.

2.2 These terms and conditions are the only conditions upon which the Buyer is prepared to deal with the Supplier, and shall govern the Contract to the entire exclusion of all other terms and conditions.

2.3 No Order or commitment is valid unless duly made and authorised on the official order form.

2.4 Any variation to the Order or these terms and conditions shall have no effect unless expressly agreed in writing and signed by an authorised signatory of the Buyer.

2.5 The department and Order numbers must appear on all delivery advices, invoices, parcels and correspondence.

3. Specification and Standard of Goods

- 3.1 The quantity, quality and description of the Goods shall be as specified in the Order and/or in any applicable specification supplied or advised by the Buyer to the Supplier.
- 3.2 The Supplier shall comply with all applicable standards, regulations and/or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods.
- 3.3 The Goods shall be free from defects in design, materials and workmanship and be fit for the express or implied purpose for which they are to be supplied under the Order.
- 3.4 Where Goods are not of British manufacture, the country of origin must be stated on all invoices and Goods must be marked in conformity with any Orders-in-Council under the Merchandise Marks Act for the time being in force.
- 3.5 The acceptance of the order shall be deemed to be a warranty that the goods satisfy the requirements of the Foods and Drugs Act and Weights and Measures Acts for the time being in force.

4. Labelling of Goods

- 4.1 The Supplier shall label Goods individually with all information required in respect of labelling imposed by all relevant statutes, orders, standards, and regulations.
- 4.2 The Supplier will agree, where practicable, to enter into a source tagging programme of agreed goods with EAS soft tags.

5. Packaging

- 5.1 No charge shall be made by the Supplier for packaging (e.g. wrapping, packing, cartons, boxing, crating, pallets) unless authority for such charge is expressly incorporated in the Contract.
- 5.2 The Supplier shall comply with all applicable standards, regulations and/or other legal requirements concerning the packaging of the Goods.
- 5.3 Where such standards, regulations, and legal requirements apply, evidence shall be provided to the Buyer by the Supplier as proof of this compliance.
- 5.4 The Supplier must ensure that the packaging is suitable for containing any potentially hazardous Goods.

- 5.5 Any hazardous or potentially hazardous substances or products that contain such substances are to be packaged to an extent that effectively prevents the discharge, release, or accidental spillage of any of the contents. This is to include in the event of a reasonable impact or force being placed onto the packaging or container (e.g. in the event of the Goods being dropped).
- 5.6 Packaging that is intended for containing any hazardous or potentially hazardous substances is to undergo suitable and sufficient inspection and testing to ensure compliance with points 5.2 to 5.5 above.
- 5.7 Evidence (e.g. test certificates) shall be provided to the Buyer by the Supplier as proof of all such inspections and testing of packaging.
- 5.8 Attempts are to be made by the Supplier to ensure that Goods are packaged in cartons of a weight not in excess of 25kg. Where this is not possible and this weight is exceeded then appropriate warning and notification of the weight of each carton is to be attached to the delivery note and/or clearly upon the outer of each carton.
- 5.9 The Supplier shall provide the Buyer with details, total quantities and total weights of all packaging provided upon each delivery. This information shall be provided to the delivery address at the time of delivery.
- 5.10 The supplier shall provide to the business a breakdown of packaging commitments on an annual basis in preparation for our packaging return required under The waste packaging regulations 1997
- 5.11 Unless otherwise stated in the Contract, all packaging will be non-returnable. If the Contract states that packaging is returnable, the Supplier must give full instructions before delivery and must pay the cost of all carriage and handling for the return of any packaging.
- 5.12 The Buyer will not be liable for any packaging lost or damaged in transit.

6. Price and Payment

- 6.1 The price payable for the goods shall be stated in the Order and unless otherwise stated shall be:
- Inclusive of all charges including, but not limited to, packaging material, packing, shipping, loading, carriage, insurance and delivery of the Goods to the delivery address and any duties, imposts, levies or taxes other than VAT; and
 - Fixed for the duration of the Contract.

- 6.2 No variation in the price nor extra can be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior written consent of the Buyer.
- 6.3 Unless otherwise stated in the Order the Buyer shall pay the price stated within the Order within 45 days after the delivery of the Goods.
- 6.4 Invoices must be rendered on the basis of one per each Order (ie. by department) and should be addressed to the Buyer and not to individuals.

7. Delivery

- 7.1 All Goods must be delivered carriage paid unless otherwise agreed and stated in writing at the time of the Order.
- 7.2 Delivery must be made strictly in accordance with the instructions on the Order and those contained within these terms and conditions.
- 7.3 Goods will be delivered to the destination stated within the Order or to an alternative location if requested by the Buyer and are to be accompanied by a delivery note.
- 7.4 Goods are to be delivered during the Buyers normal business hours at a time stipulated by the Buyer.
- 7.5 All Goods shall be properly packed to protect against damage and deterioration in transit and to ensure safety and ease of unloading.
- 7.6 The Supplier will repair, replace, or be responsible for covering the cost of any goods damaged during loading or transit.

8. Risk and Ownership

- 8.1 The Supplier shall be responsible for any loss or damage occurring to the Goods, from whatever cause, occurring before and during transit up to the point of delivery.
- 8.2 Ownership of the Goods will pass to the Buyer upon delivery.
- 8.3 The effect of this clause is without prejudice to any rights of rejection, termination or cancellation that the Buyer may have.

9. Health and Safety

- 9.1 All Goods supplied under the Contract shall be so formulated, designed, constructed, finished and packaged as to be safe and without risk to the health and safety of any persons.

- 9.2 All Goods and packaging are to comply in full with all relevant health and safety, fire, and food statutory requirements/regulations and safety standards.
- 9.3 The Supplier is to ensure that both the goods and the packaging undergo all necessary inspection and testing in order to comply with points 9.1 and 9.2 above. Evidence of such testing and inspections (e.g. test certificates) is to be made available upon request by the Buyer.
- 9.4 Prior to delivery, the Supplier is to notify the Buyer in writing of any harmful or potentially harmful ingredients in the Goods supplied.
- 9.5 The Supplier must provide the Buyer with Product Safety Data (PSD) sheets for any Goods containing any hazardous materials/substances. These sheets must be provided prior to or at the time of delivery.
- 9.6 Hazardous materials/substances must be clearly marked with the relevant warnings, safety information, emergency information and the name of the hazardous ingredient.
- 9.7 The Supplier must provide the Buyer with adequate information regarding the safe and correct storage, display and sale of any hazardous materials/substances. This is to include information on any restrictions that may exist (e.g. age restrictions on sale, maximum storage quantities) or safety precautions that may be required (e.g. safe methods and locations for storage/display).
- 9.8 All Goods are to be supplied with full instructions for their proper use, maintenance and repair, including all necessary safety information. Any necessary warning notices must also be clearly displayed.
- 9.9 All instructions and information stated in points 9.6 and 9.7 above must be provided with or on each individual item in English.

10. Remedies

- 10.1 Without prejudice to any other right or remedy which the Buyer may have, if any Goods are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Contract or these terms and conditions, the Buyer shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by the Buyer:
- To rescind the Order.
 - To reject the Goods (in whole or part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier.

- At the Buyer's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled.
- To refuse to accept any further deliveries of the Goods but without any liability to the Supplier.
- To carry out at the Supplier's expense any work necessary to make the Goods comply with the Contract; and
- To claim such damages as may have been sustained in consequence of the Supplier's breaches of the Contract.

10.2 The Buyer has the right to inspect any goods in the course of manufacture or before despatch from the seller or makers premises. Such inspection shall not absolve the Supplier from responsibility or liability nor imply acceptance of the Goods by the Buyer. In the case of Goods delivered by the Supplier not being as specified the Buyer reserves the right to reject such Goods and to claim any expenses incurred as a result of such inspection.

11. Warranty and Indemnity

11.1 The Supplier warrants to the Buyer that:

- The Supplier has good title and right to sell the goods.
- The Goods will be of satisfactory merchantable quality and fit for their purpose, including the purpose of sale through retail stores.
- The Goods will be free of any defects in design, material and workmanship.
- The Goods will comply with all statutory requirements and regulations, voluntary codes of conduct, British Safety Standards, and EEC directives relating to the Goods and their sale and supply.
- The Goods will correspond in every respect with any specifications, drawings, samples or descriptions provided by the Buyer.
- The Supplier has in no way infringed any existing copyright, patent, design right, registered design, trademark, or other industrial or intellectual property or other rights of any nature of any person.
- The Supplier has fully disclosed to the Buyer any previous claims of ownership (ie. existing copyright, patent, design right, registered design, or trademark) on the Goods or on similar Goods previously sold in the UK.

- The Supplier has not either by act or omission caused or permitted anything which may endanger the trademark or patent, or any design rights of the Goods.
 - The Supplier has not knowingly withheld from the Buyer any circumstances that may cause the Buyer any subsequent difficulties or restrictions in selling on the Goods.
- 11.2 The Supplier shall indemnify and keep indemnified the Buyer in full from and against all direct, indirect or consequential liability, loss, damages, injury, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:
- Breach of any warranty given by the Supplier in relation to the Goods.
 - Any claim that the Goods infringe, or their use, resale or importation infringes the British or foreign patent, copyright, registered design, design right, trade mark, trade name or other intellectual property right of any other third party.
 - Any claim made against the Buyer in respect of any liability, loss, damage, cost or expense sustained by the Buyer's employees or agents by any customer or third party to the extent that such liability, loss, damage, cost or expense was caused by, relates to or arises from the Goods.
 - Any act or omission of the Supplier or its employees, agents or sub-contractors in supplying or delivering the Goods in accordance with the Contract.
 - Any defect in packaging or containers of the Goods or any misleading or inaccurate information or data supplied at any time by the Supplier.
 - Any injury to any person which may result directly or indirectly from any defect in the Goods or the negligent or wrongful act or omission of the Supplier.
- 11.3 The Supplier shall effect with a reputable insurance company a policy or policies covering all the matters which are the subject of the indemnities under these terms and conditions and shall at the request of the Buyer produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium there under.

12. Termination

- 12.1 The Buyer shall be entitled to cancel any Order in whole or in part by giving notice to the Supplier at any time prior to delivery of the Goods in which event the Buyer's sole liability shall be to pay to the Supplier fair and reasonable compensation for work-in-progress at the time of

cancellation but such compensation shall not include loss of anticipated profits or any consequential loss.

12.2 The Buyer shall be entitled to terminate the Contract without liability to the Supplier by giving notice to the supplier at any time if:

- The Supplier commits a breach of any of the terms and conditions of the Contract.
- Any distress, execution or other legal process is levied upon any of the assets of the Supplier.
- The Supplier enters into any arrangement or composition with its creditors, commits any act of bankruptcy or (being a corporation) if an order is made or an effective resolution is passed for its winding up (except for the purpose of amalgamation or reconstruction), or if a petition is presented to court, or if a receiver and manager, receiver, administrative receiver or administrator is appointed in respect of the whole, or any part of, the Supplier's undertaking or assets.
- The Supplier ceases or threatens to cease to carry on its business.
- The financial position of the Supplier deteriorates to such an extent that in the opinion of the Buyer the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy.
- The Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier.
- The Supplier does not pay any money due from it to the Buyer; or
- There is any breach of these terms and conditions by the Supplier.

13. Force Majeure

13.1 The Buyer reserves the right to defer the date of delivery or payment, cancel the Contract, or reduce the volume of Goods ordered if it is prevented from or delayed in the carrying on of its business through any circumstances beyond its reasonable control.

13.2 Without prejudice to the generality of condition 13.1 the following shall be included as causes beyond the Buyer's reasonable control:

- Governmental actions, war or threat of war, national emergency, riot, civil disturbance, sabotage or requisition.
- Act of God, fire, explosion, flood, epidemic or accident.
- Import or export regulations or embargoes.

- Labour disputes, not including the workforce of the Supplier.
- Inability to obtain or delay in obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour; or
- A power failure or breakdown of machinery.

14. Governing Law and Jurisdiction

14.1 The Contract and all matters arising there under shall be governed by and constructed in accordance with the laws of England and the parties hereto hereby submit to the non-exclusive jurisdiction of the English Courts.