

# Terms and Conditions of Sale

## 1 Interpretation

### 1.1 In these Conditions:

‘CUSTOMER’ means the person or organisation whose name appears on the attached Written Order

‘GOODS’ means the goods (including any installment of the goods or any parts for them) which the Supplier is to supply as set out more specifically on the attached Written Order

‘SUPPLIER’ means WorkSpirit UK Ltd (registered in England & Wales under No.04638051

‘CONDITIONS’ means the standard terms and conditions of sale 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 and attached to these conditions

‘CONTRACT’ means the contract for the purchase and sale of the Goods.

‘WRITING’ includes telex, cable, facsimile transmission, electronic mail and comparable means of communication.

‘WRITTEN ORDER’ means the attached written order setting out the agreed price and description for the Goods together with any special terms agreed between the parties.

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.

## 2 Basis of the sale

2.1 The Supplier shall sell and the Customer shall purchase the Goods subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the Customer and the Supplier or either party’s authorized representatives.

2.3 The Supplier’s employees or agents are not authorized to make any representations concerning the Goods including but not limited to maintenance and storage of the Goods unless confirmed by the Supplier in Writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed.

2.4 Any advice or recommendation given by the Supplier 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 the Supplier is followed or acted upon entirely at the Customer’s own risk, and accordingly the Supplier shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 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 the Supplier shall be subject to correction without any liability on the part of the Supplier

## 3 Orders and specifications

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

3.2 The quantity and description of and any specification for the Goods shall be those set out in the Supplier’s Written Order.

3.3 Drawings, specifications and any particulars of timber finishes, colour shades, weights, measurements or quantities submitted in or Writing any quotation are approximate only and intended to present a general idea of the Goods described in the Written Order. The copyright in all drawings, specifications and publications supplied or published by the Supplier is reserved to the Supplier. The Supplier warrants that the Goods supplied will correspond substantially with any photographs, drawings, plans or other illustrations or descriptions given in relation to the Goods.

3.4 No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in Writing of the Supplier and on terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.

## 4 Price of the goods

4.1 The price of the Goods shall be the Supplier’s quoted price set out in the attached Written Order.

4.2 The Supplier reserves the right, by giving notice to the Customer 14 days before delivery, to increase the price of the Goods to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture). The Supplier may also invoice the Customer for any additional costs incurred by the Supplier as a result of any change in delivery dates or quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.

4.3 The price is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to the Supplier.

## 5 Terms of payment

5.1 Subject to any special payment terms set out in the Written Order the Supplier shall charge a deposit of fifty per cent of the value set out in the Written Order at the date hereof. A further twenty five per cent shall be

payable on delivery of the Goods and the final twenty five per cent shall be payable on installation.

5.2 The Customer shall pay the price of the Goods as set out in condition 5.1 above within 30 days of the date of the Supplier's invoice, and the Supplier shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. Receipts for payment will be issued only upon request.

5.3 If the Customer fails to make payment on the due dates then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:

5.3.1 cancel the Contract or suspend delivery to the Customer; and

5.3.2 charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate of 3% per cent per annum above the then current Bank base rate from time to time, until payment in full is made.

## **6 Delivery**

6.1 Delivery of the Goods shall be made in accordance with the Written Order or by the Customer collecting the Goods at the Supplier's premises at any time after the Supplier has notified the Customer that the Goods are ready for collection or, if some other place for delivery is agreed with the Supplier, by the Supplier delivering the Goods to that place. A delivery charge shall be levied by the Supplier in accordance with the Written Order.

6.2 Any dates quoted for delivery of the Goods are approximate only and the Supplier 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 the Supplier in Writing. The Goods may be delivered by the Supplier in advance of the quoted delivery date upon giving reasonable notice to the Customer.

6.3 If the Customer fails to take delivery of the Goods or fails to give the Supplier adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Supplier's fault) then, without prejudice to any other right or remedy available to the Supplier, the Supplier may:

6.3.1 store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or

6.3.2 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.

## **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 the Supplier's premises, at the time when the Supplier notifies the Customer that the Goods are collected from the Supplier; or

7.1.2 in the case of Goods to be delivered otherwise

than at the Supplier's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Supplier to the Customer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as the Supplier'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 the Supplier's property, but the Customer shall be entitled to resell or use the Goods in the ordinary course of its business.

7.4 Until such time as the property in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold), the Supplier shall be entitled at any time to require the Customer to deliver up the Goods to the Supplier and, if the Customer fails to do so forthwith, to 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 the Supplier, but if the Customer does so all moneys owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable

## **8 Limitation of liability**

8.1 The Supplier shall be under no liability in respect of any defect in or unsuitability of the Goods arising from any measurement, drawing, design or specification supplied by the Customer.

8.2 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Supplier's written instructions, misuse or alteration or repair of the Goods without the Supplier's approval.

8.3 Any claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Customer) be notified to the Supplier within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Customer does not notify the Supplier accordingly, the Customer shall not be entitled to reject the Goods and the Supplier 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.

8.4 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Supplier in accordance with these Conditions, the Supplier shall be entitled to replace the Goods (or the part

in question) free of charge or, at the Supplier's sole discretion, refund to the Customer the price of the Goods (or an proportionate part of the price).

8.5 The Supplier's sole obligation under this Contract in respect of any services it may supply in the installation and assembly of the Goods shall be to exercise a reasonable standard of skill and care in carrying out such installation or assembly.

8.6 Except in respect of death or personal injury caused by the Supplier's negligence, the Supplier shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Supplier, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Customer, and the entire liability of the Supplier under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

8.7 All costs of inspection, dismantling defective parts and installation new, replaced or repaired parts and carriage as a result of a defect are excluded from this guarantee and are payable by the Supplier.

## **9 Force Majeure**

9.1 The Supplier shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Supplier's reasonable control.

## **10. Insolvency of the Customer**

10.1 This clause applies if:-

10.1.1 the Customer makes any voluntary arrangements with creditors or becomes subject to an administration order or (being an individual firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

10.1.2 an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Customer, or

10.1.3 the Customer ceases or threatens to cease to carry on business; or

10.1.4 the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

10.2 If this condition 10 applies then without prejudice to any other right or remedy available to the Supplier the Supplier shall be entitled to cancel the Contract or to 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.

## **11. Severance**

11.1 If any provision (or part thereof) in these conditions of sale is found to be invalid, ineffective or un-enforceable, the invalidity, ineffectiveness or un-enforceability of such provision (or part thereof) shall not affect any other provision or the remainder of the partly invalid, ineffective or unenforceable provision.

## **12. General**

12.1 Any notice 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 other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.2 No waiver by the Supplier 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.

12.3 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.

12.4 The Contract shall be governed by the laws of England, and the Customer agrees to submit to the non-exclusive jurisdiction of the English courts.