

1. DEFINITIONS

- a) The following definitions shall apply:
"Albis" means Albis (U.K.) Ltd with company number 00886913.
"Buyer" means the person, company or firm who purchases the Materials from Albis.
"Conditions" means the terms and conditions set out in this document.
"Contract" means the contract between Albis and the Buyer for the sale and purchase of the Materials in accordance with these Conditions.
"Data Sheet" means Albis' standard written data sheet (if any) applicable to the Materials as at the date of delivery of the Materials to the Buyer.
"Materials" means the materials specified in the Sales Order Acknowledgement.
"Sales Order Acknowledgement" means Albis' written form of acknowledgement to the Buyer's order for the Materials.
- b) Any reference in the Contract to Incoterms shall be to the International Chamber of Commerce Incoterms of 2010.

2. BASIS OF CONTRACT

- a) Unless otherwise expressly agreed in writing by a director of Albis every sale by Albis shall be subject to these Conditions to the exclusion of any other terms.
- b) No representative or agent of Albis has authority to amend, vary or waive these Conditions or to make any binding representation or warranty in respect of the Materials.
- c) Albis' quotations do not constitute an offer and any orders placed with Albis shall not be binding or deemed accepted by Albis unless and until a Sales Order Acknowledgement is issued to the Buyer.
- d) Except as otherwise agreed in these Conditions, all descriptive matter, samples, weight, dimensions, specifications, capacities, brochures, catalogues, price lists and advertising matter are published or issued for the sole purpose of giving an approximate idea of the materials described therein and no information contained in any of them or in any other document shall form part of the contractual description of the Materials, nor shall they form part of any Contract.
- e) Notwithstanding that a sample of the Materials be made available to the Buyer, such sample is solely to enable the Buyer to judge for itself the quality of the bulk, and not so as to constitute a sale by sample. The Buyer shall take the Materials at its own risk as to their corresponding with any sample and subject to the normal variations between bulk and sample accepted by the trade.
- f) No cancellation of a Contract by the Buyer is permitted except where expressly agreed by Albis in writing.

3. DELIVERY AND RISK

- a) Unless Albis states otherwise in writing, all deliveries of Materials are made:
 (i) DDP, for delivery within the UK mainland; and
 (ii) DAP, for delivery outside of the UK mainland.
- b) Unless Albis states otherwise in writing, the Buyer shall be responsible for the off-loading and the taking of delivery of the Materials at the delivery point, including any costs incidental thereto.
- c) Times or dates quoted by Albis for completion of delivery are intended as an approximate estimate only. Time of delivery is not of the essence.
- d) Risk in the Materials shall pass to the Buyer on completion of delivery in accordance with the relevant Incoterm.
- e) Albis may deliver the Materials by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

4. FORCE MAJEURE AND TOLERANCES

- a) Albis shall not be in breach of the Contract nor liable for delay or failure in performing any of its obligations under the Contract to the extent that the performance of those obligations is delayed, hindered or prevented by any circumstances beyond Albis' control, including without limitation, strikes, lock-outs or other industrial action, civil disturbances, war, Acts of God, fire, explosion, storm, flood, tempest, seizure, arrest or requisition of the Materials or any materials to be used to produce the Materials, failure of any of Albis' usual sources of supply of goods, shortage of raw materials, government regulations, requirements, quotas or licence restrictions, shortage or delay in obtaining fuel or power, or technical or mechanical breakdown.
- b) If Albis shall:
 (i) pursuant to Condition 4a) above tender to the Buyer less than the contractual quantity of the Materials; or
 (ii) in any other case, deliver a quantity of the Materials which is within a tolerance of 10% either way of the quantity ordered; or
 (iii) in any other case, deliver a weight of the Materials which is within a tolerance of 1% either way of the weight ordered;
 the Buyer shall accept and pay for the delivered Materials (ignoring any such variations in quantity or weight).
- (iv) If performance of the Contract shall be wholly or partially suspended pursuant to Condition 4a) above for any continuous period exceeding 180 days, either party may cancel the Contract by notice in writing to the other, without prejudice to any rights which have accrued before such cancellation.

5. PRICES AND PAYMENT

- a) Unless otherwise agreed in writing by Albis, all prices quoted are:
 (i) subject to change due to market conditions outside of Albis' control; and
 (ii) exclusive of any amounts in respect of value added tax or any other applicable sales taxes, tariffs or duties, which the Buyer shall additionally be liable to pay Albis at the prevailing rate, subject to the receipt of a valid VAT invoice.
- b) Albis may invoice the Buyer for the Materials before, on or at any time after the completion of delivery and unless otherwise agreed by Albis in writing, payment shall be made in full cleared funds by the Buyer by the date for payment shown on the invoice.
- c) Time for payment of the price of the Materials shall be of the essence. The Buyer shall pay the price for the Materials without any deduction whether by way of set-off, counterclaim or otherwise whatsoever.
- d) Interest shall be charged by Albis at 3% above Barclays Bank PLC's base rate and shall accrue from day to day on all sums overdue for payment as well before and after judgement.

6. PACKAGING

- a) If the Buyer is to provide its own packaging for the Materials it shall send them "carriage paid" to Albis' designated depot in the quantities and at the time specified by Albis.
- b) Where a return of Albis' packages is stipulated in the Sales Order Acknowledgement, the Buyer shall return packages supplied by Albis to the Buyer to Albis' depot "carriage paid", in good order and condition, within a reasonable time and such loaned packages shall remain the property of Albis at all times.

7. QUALITY

- a) Albis warrants that on delivery, the Materials shall:
 (i) conform in all material respects with any specification set out in the applicable Data Sheet; and
 (ii) be free from material defects in design, material and workmanship.

The warranties in this Condition 7a) shall not apply where the Materials are not supplied to the Buyer in the manufacturer's original packing bearing that manufacturer's name.

- b) Subject to the Buyer's compliance with Conditions 7c) and 7d), if the Buyer notifies Albis in writing of any non-conformance of the Materials with the warranties in Condition 7a) within:
 (i) 3 days of the delivery of the Materials, where the defect was or should have been apparent upon reasonable inspection of the Materials; and
 (ii) 3 months of the delivery of the Materials, where the defect was not and should not have been apparent upon reasonable inspection of the Materials and in any event within 3 days of discovery of the defect by the Buyer;
 Albis shall, at its option, replace the defective Materials or give the Buyer a full refund for the defective Materials. These Conditions shall apply to any replaced Materials supplied by Albis.
- c) Where it is reasonably apparent at the time of delivery that (i) there is a defect in the Materials or (ii) there is an under-delivery of the quantity of the Materials, the Buyer shall note all such issues on the carrier's delivery note/proof of delivery documentation.
 (i) The Buyer shall:
 (i) co-operate with Albis in providing such samples, information and documentation as Albis shall reasonably require to examine the alleged defects in the Materials;
 (ii) make no further use of the relevant Materials after discovering the defect;
 (iii) be required to have retained all title to the relevant Materials (as between it and any third parties).
- e) Except as provided in this Condition 7, Albis shall have no liability to the Buyer in respect of any defects in the Materials or the failure of the Materials to comply with the warranties set out in Condition 7a);
 f) In order to be able to meet the demands of the IATF 16949 (a quality management system standard for the automotive industry), where a Buyer purchases Materials for use in the field of automobile production or supply, the Buyer shall inform Albis in written form – insofar as not already provided for in purchase orders, offers or contract orders of the Buyer – of the countries of destination (within the meaning of the IATF 16949 standard requirements) the deliveries to the Buyer are to be made.

8. LIMITATION OF LIABILITY AND INDEMNITY

- a) Nothing in the Contract shall exclude or restrict the liability of Albis for (i) death or personal injury resulting from its negligence; (ii) fraud or fraudulent misrepresentation; (iii) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or (iv) any matter in respect of which it would be unlawful for Albis to exclude or restrict liability.
- b) Albis has no expert knowledge relating to the further processing of the Materials and as such it is unreasonable for the Buyer to rely on Albis' skill or judgement in deciding whether or not the Materials are suitable for the Buyer's purpose. Data Sheets will, in so far as is available, be given on the Materials but no advice or recommendations will be deemed given on any applications or processes applied to the Materials by the Buyer.
- c) Subject to Condition 9a), Albis shall not be liable whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any consequential or indirect loss suffered by the Buyer.
- d) Subject to Condition 9a), Albis' total liability whether in contract, tort (including negligence), breach of statutory duty, or otherwise for all claims arising under or in connection with a Contract shall not exceed the price of the Materials which is the subject matter of the Contract.
- e) Save as expressly set out in the Contract, all warranties, conditions and other terms implied by statute or common law (except for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- f) The Buyer shall indemnify Albis against all costs claims, demands, proceedings, charges and expenses for which Albis may become liable in respect of the Materials, except to the extent that liability is expressly assumed by Albis under these Conditions.

9. LIEN

- a) In addition to any other right or remedy which Albis may be entitled to by law or otherwise, Albis shall have a lien and power of sale over any goods of the Buyer in the possession of Albis for the amounts due and owing under the terms of any contract between Albis or any Associated Company of Albis and the Buyer or any Associated Company of the Buyer. Albis shall be entitled to retain such property in its possession until full payment is made. If any such sum remains unpaid (in full or in part) more than 7 days after it becomes due, Albis is entitled to dispose of the property in such manner and at such price as it thinks fit.
- b) For the purpose of this Condition 9a) a company is to be treated as another's "Associated Company" if one of the two has control of the other (whether directly or indirectly) or both are under the control of the same person or persons (whether directly or indirectly) and for the purposes of this definition the expression "control" shall have the meaning given to it by section 1124 of the Corporation Tax Act 2010.

10. TERMINATION

- a) Without limiting its other rights or remedies, Albis may suspend and/or terminate the Contract (and any other contract between the Buyer and Albis) with immediate effect by giving written notice to the Buyer if:
 (i) the Buyer commits a material breach of any term of the Contract (or any other contract between the Buyer and Albis) and (if such a breach is remediable) fails to remedy that breach within 14 days of the Buyer being notified in writing to do so;
 (ii) the Buyer is overdue with a payment to Albis under the Contract (or any other contract between the Buyer and Albis) and fails to remedy the non-payment within 14 days of the Buyer being notified in writing to do so;
 (iii) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

- (iv) the Buyer suspends, threatens to suspend, ceases, or threatens to cease to carry on all or a substantial part of its business.
- b) In the event of any termination by Albis in accordance with Condition 10a) above or any purported termination and/or repudiation of the Contract by the Buyer, Albis shall be entitled to recover as damages from the Buyer:-
 (i) the value of any work completed or such of the Materials manufactured at the date of termination; and
 (ii) the value of any work begun or the Materials begun to be manufactured but not completed at the date of termination including the cost of materials, labour and overheads in connection therewith; and
 (iii) a sum representing any further profit which Albis would have made on the Contract but for its termination, such profit to be determined by Albis' auditors whose decision shall be conclusive and binding on the Buyer.
- c) The rights conferred by this Condition 10 shall be without prejudice to any other right of Albis pursuant to the Contract or by law, including in particular the right to recover the Materials from the Buyer pursuant to Condition 11 below.

11. RETENTION OF TITLE

- a) Title to the Materials shall not pass to the Buyer until Albis receives payment in full (in cash or cleared funds) for the Materials and any other goods that Albis has supplied to the Buyer.
- b) Until title to the Materials has passed to the Buyer, the Buyer shall:
 (i) keep the Materials as bailee for Albis;
 (ii) store the Materials separately from other goods held by the Buyer so that they remain readily identifiable as Albis' property;
 (iii) not remove, deface or obscure any identifying mark or packaging on or relating to the Materials;
 (iv) keep the Materials free from any charge, lien or other encumbrance;
 (v) maintain the Materials in a satisfactory condition and keep them insured against all risks for their full price from delivery; and
 (vi) be entitled to use (but not to sell) the Materials in the normal course of the Buyer's business, but only upon the condition that if the Materials are made up or incorporated in or mixed with other materials then, if they remain separately identifiable, Albis shall retain title thereto and if they do not remain separately identifiable, Albis shall become the joint owner of the materials in or with which the Materials are incorporated or mixed in such proportion as the value of the Materials bears to the value of the materials in which the Materials are incorporated or mixed.
- c) Until title to the Materials has passed to the Buyer, Albis may recover the Materials at any time, and the Buyer grants to Albis, its agents, employees and sub-contractors an irrevocable licence at any time to enter any premises where the Materials are or may be stored. In the case of the Materials being stored on premises owned by a third party the Buyer shall procure such a right for Albis.
- d) Nothing in this Condition 11 shall in any way limit or modify the Buyer's obligation to pay for the Materials in accordance with these Conditions.
- e) Whenever Albis is entitled to dispose of or resell the Materials it may do so irrespective of any identifying names, marks or logos or the label attached to the Materials.
- f) Each of the preceding conditions and sub conditions shall be construed and shall take effect separately and in the event of one or more such conditions or sub conditions being held void this shall not affect the validity of the remaining provisions.

12. CONFIDENTIALITY

Each party hereby undertakes not at any time to divulge any of the terms of the Contract or use any information in relation to the other party's business or any other information received from the other party in relation to the Contract of a confidential or proprietary nature other than for the purposes expressly envisaged by these Conditions, provided that Albis may divulge such information to any party to whom it assigns or transfers all or part of the Contract.

13. GENERAL

- a) Any failure by Albis to exercise any rights under these Conditions shall not constitute a waiver or prevent the subsequent exercise of such rights.
- b) Albis may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- c) The Buyer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Albis.
- d) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- e) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- f) No one other than a party to the Contract and their permitted assignees shall have any right to enforce any of its terms.
- g) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Condition shall not affect the validity and enforceability of the rest of the Contract.
- h) Any notice required to be given hereunder shall be addressed in the case of a notice to be given to the Buyer at the postal address, email address or fax number of the Buyer shown on the Sales Order Acknowledgement or invoice and in the case of Albis at its current registered office address. Notices may be given by letter by leaving the same or sending first class post in a pre paid envelope and a notice so given shall be deemed to have been given on the day it was left or on the next business day after posting. Notices to the Buyer may be given by email or fax and a notice served by email or fax shall be deemed to have been given one business day after transmission.
- i) The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.