

**LUCY ZODION LIMITED  
STANDARD CONDITIONS OF SALE**

**1. Interpretation**

1.1. In these Conditions:

“**Business Day**” means a day other than a Saturday, Sunday or UK public holiday.

“**Buyer**” as specified in the Purchase Order.

“**Company**” means **LUCY ZODION LIMITED**, company number 7448407, whose registered office is at Eagle Works, Walton Well Road, Oxford, OX2 6EE, United Kingdom.

“**Conditions**” means these standard conditions of sale.

“**Contract**” means the agreement between Company and Buyer comprising the Purchase Order, these Conditions and any other document expressly stated in the Purchase Order as being incorporated into the Contract.

“**Delivery Location**” means the place of delivery of Goods (including any agreed instalment) specified in the Purchase Order.

“**Force Majeure Event**” has the meaning given to it in clause 14.4.

“**Goods**” means the goods identified in the Purchase Order.

“**Group**” means in relation to a company, the company, its subsidiaries, its holding companies and their respective subsidiaries (“holding company” and “subsidiary” shall have the same meaning as in section 1159 of the Companies Act 2006).

“**Insolvency Event**” means the events listed in clause 11.2.

“**Intellectual Property Rights**” all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world. **Intellectual Property Right** means any one of the Intellectual Property Rights.

“**Purchase Order**” means an order in respect of Goods to be supplied by the Buyer to the Company.

“**Specification**” means the description of the Goods set out or referred to in the Purchase Order.

1.2. If there is any inconsistency between these Conditions and the Purchase Order and any other document forming part of the Contract, these Conditions shall take precedence.

1.3. Headings do not affect the interpretation of the Contract.

- 1.4. A "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.5. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6. Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.7. Reference to a statute, provision or any subordinate legislation made under a statute is to such statute, provision or subordinate legislation as amended or re-enacted from time to time and, in the case of a statute, includes any subordinate legislation made under that statute from time to time.
- 1.8. An obligation in the Contract not to do something includes an obligation not to agree or allow that thing to be done.
- 1.9. Reference to the Contract or any other agreement is a reference to the Contract or that agreement as validly varied or novated at any time.
- 1.10. References to clauses are to clauses of the Contract.
- 1.11. If Company constitutes two or more persons, the obligations and liabilities of such persons are joint and several.
- 1.12. A phrase introduced by the terms "including", "include", "in particular" or similar expression shall be illustrative and not limit the sense of the words proceeding such terms.

## **2. Quotations and Acceptance**

- 2.1. A quotation for the Goods given by the Company shall not constitute an offer. A quotation shall only be valid for a period of 10 Business Days from its date of issue, unless otherwise stated by the Company.
- 2.2. A Purchase Order shall only be deemed to be accepted when the Company issues a written acceptance of it, at which point the Contract shall come into existence.
- 2.3. The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.
- 2.4. Any Purchase Order must be accompanied by all information required to enable the Company to commence performance of the Contract after the Company has accepted the Purchase Order. The Buyer warrants that all information supplied to the Company by the Buyer, its agents, sub-contractors or employees shall be correct and accurate and comprehensive for the purpose of performance of the contract and hereby indemnifies the Company against any and all costs, losses, expenses, damages and fees incurred by the Company whether directly or indirectly as a result of breach of this warranty.

## **3. Manufacture, quality and packing**

- 3.1. The Company agrees to supply to the Buyer the Goods on the terms of the Contract.
- 3.2. The Company undertakes that the Goods will:
  - a) comply with the Specification;
  - b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended);

- c) where applicable, be free from defects in design, material and workmanship and remain so for 12 months after delivery; and
  - d) comply with all applicable statutory and regulatory requirements.
- 3.3. The Company shall not provide for packing materials within the Contract price unless otherwise stated.
- 3.4. The manner of the packing shall be at the discretion of the Company. The Company accepts no liability for failure to pack to any particular standard or against any particular risk unless the requirements for such packing are specifically brought to the attention of the Company, accepted by the Company and paid for by the Buyer.

#### **4. Time and place of delivery**

- 4.1. Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location on the basis ex-works as that term is defined in Incoterms 2010.
- 4.2. The Company reserves the right to deliver the Goods by instalments and in such event each instalment shall be treated as a separate Contract provided that deliveries of further instalments may be withheld until the Goods comprised in earlier instalments have been paid for in full.
- 4.3. If the Company fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Company shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4. Any period of time quoted or accepted by the Company for despatch, delivery or completion of the Goods are to be treated as estimates only, and the Company shall have no liability to the Buyer in respect of any loss suffered or expense incurred as a result of failure to perform the Contract in any way within any such period and for the avoidance of any doubt no delay of whatsoever nature shall entitle the Buyer to cancel the order or refuse to accept deliver or in any other way fail to perform an obligation on its part hereunder at any time.

#### **5. Acceptance and rejection of Goods**

- 5.1. If the Buyer fails to accept delivery of the Goods within 5 Business Days of the Company notifying the Buyer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Company's failure to comply with its obligations under the Contract:
  - a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the fifth Business Day after the day on which the Company notified the Buyer that the Goods were ready]; and
  - b) the Company shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).
- 5.2. If 10 Business Days after the day on which the Company notified the Buyer that the Goods were ready for delivery the Buyer has not accepted delivery of them, the Company may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Buyer for any shortfall below the price of the Goods.
- 5.3. The Buyer shall not be entitled to reject the Goods if the Company delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Purchase Order invoice on receipt of notice from the Buyer that the wrong quantity of Goods was delivered.

- 5.4. In the event of defective workmanship or materials in the Goods the Company will repair or replace the Goods as the Company deems appropriate provided always that such defect becomes apparent within 12 months of delivery in respect thereof and is notified promptly in writing to the Company by the Buyer and the Goods which are alleged to be defective are returned carriage paid to the Company for inspection, all subject to the Company being satisfied after being provided with such information as the Company may reasonably require that the defect is not attributable to fair wear and tear, incorrect or defective storage, fitting, installation or use, unauthorised reconditioning or repair, accident, neglect or any cause whatsoever beyond the control of the Company.
- 5.5. Any repair or replacement shall be the limit of damage or loss for which the Company shall be liable and the Company's liability hereunder shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the Goods.

## **6. Risk and title**

- 6.1. Whilst risk in the Goods supplied to the Buyer under the Contract shall pass on delivery, legal and beneficial ownership of the Goods shall remain with the Company until such time as the Company has received payment in full for all Goods supplied to the Buyer or until such time as the Goods are sold to the Buyer's customers by way of bona fide sale at full market value (whichever shall be the earlier) and the proceeds of sale to be held on trust for Company.
- 6.2. Until title to the Goods has passed to the Buyer, the Buyer shall:
- a) hold the Goods on a fiduciary basis as the Company's bailee;
  - b) store the Goods separately from all other Goods held by the Buyer so that they remain readily identifiable as the Company's property;
  - c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - e) notify the Company immediately if it becomes subject to an Insolvency Event; and
  - f) give the Company such information relating to the Goods as the Company may require from time to time,
- 6.3. If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the Insolvency Events, or the Company reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Company may have, the Company may at any time require the Buyer to deliver up the Goods and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

## **7. Price and payment**

- 7.1. All invoice sums shall be payable on demand and in any event shall be paid in full not later than 30 days after delivery.
- 7.2. Where only part of the Goods are dispatched, payment shall be made of the Contract price attributable to that part.
- 7.3. In the event of any delay(s) in delivery attributable to the Buyer's actions or failure to act, the Buyer shall make payment to the Company in accordance with this clause 7 as if the Goods had been delivered at the time(s) at which best for such delay(s) such delivery would have taken place.

- 7.4. The Company reserves the right to charge interest on late payment at a rate of 3% per annum above base rate quoted by HSBC Bank plc from time to time on the daily balance due from the due date until payment in full is made and to charge the cost of effecting collections of outstanding accounts to the Buyer's account.
- 7.5. If any payment under any Contract between the Company and the Buyer falls into arrears the Company shall have the right to cancel or postpone performance of the Contract under which payment is due and any other Contract between the parties wholly or in part and to be paid immediately for performance of any such Contract to date.
- 7.6. The Buyer shall not be entitled to any set-off of obligations within or between Contracts with the Company.

## **8. Limitation of Liability**

- 8.1. Nothing in these Conditions shall limit or exclude the Company's liability for:
- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); and
  - b) fraud or fraudulent misrepresentation.
- 8.2. Subject to clause 8.1
- a) the Company shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
  - b) the Company's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

## **9. Assignment and subcontracting**

The Buyer may not, without the Company's prior written consent, assign or transfer any of its rights or obligations under the Contract. The Company may at any time assign or transfer its rights under the Contract.

## **10. Confidentiality and intellectual property**

- 10.1. Neither party shall disclose to any person any confidential information disclosed to it by the other party concerning the business or affairs of the other party or, any member of its Group, including information relating to a party's operations, process, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers ("**Confidential Information**"), except as permitted by clause 10.2.
- 10.2. The Company may disclose Confidential Information to its employees, officers, agents, consultants or subcontractors ("**Representatives**") who need to know such information for the purposes of carrying out the Company's obligations under the Contract, provided the Company takes all reasonable steps to ensure its Representatives comply with the confidentiality obligations in this clause 10 as though they were party to the Contract.
- 10.3. The Company reserves all rights in its Confidential Information. No rights or obligations in respect of such information other than those expressly stated in the Contract are granted to the Buyer. In particular, no licence is granted directly or indirectly under any patent, invention, discovery, copyright or other Intellectual Property Right held, made, obtained or licensable by the Company at any time.

10.4. All rights to use designs, drawings and other documents prepared in connection with the Contract shall vest solely in the Company. Buyer shall only use such designs, drawings and documents for the purpose of the Contract.

**11. Termination**

11.1. If the Buyer becomes subject to an Insolvency Event or the Company reasonably believes that the Buyer is about to become subject to any of them and notifies the Buyer accordingly, then, without limiting any other right or remedy available to the Company, the Company may cancel or suspend all further deliveries under the Contract or under any other Contract between the Buyer and the Company without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

11.2. For the purposes of these Conditions, Insolvency Events are:

- a) the Buyer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- b) the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer, other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- d) (being an individual) the Buyer is the subject of a bankruptcy petition or order;
- e) a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- f) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer;
- g) (being a company) a floating charge holder over the Buyer's assets has become entitled to appoint or has appointed an administrative receiver;
- h) a person becomes entitled to appoint a receiver over the Buyer's assets or a receiver is appointed over the Buyer's assets;
- i) any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to an Insolvency Event;
- j) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
- k) the Buyer's financial position deteriorates to such an extent that in the Company's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;

- l) (being an individual) the Buyer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; and
- m) a breach of clause 15.1 occurs.

**12. Obligations on termination**

12.1. On termination of the Contract:

- a) The Buyer shall return to the Company all documents and materials (and any copies) containing Confidential Information that the Company had supplied to the Buyer in connection with the supply of Goods under the Contract; and
- b) The Buyer shall erase all of the Company's Confidential Information from its computer systems.

12.2. The Buyer shall, on request, confirm in writing that it has complied with the requirements of this clause 12.

**13. Effect of termination**

13.1. On termination of the Contract, the following clauses shall continue in full force and effect:

- a) clause 10 (Confidentiality);
- b) clause 12 (Obligations on termination); and
- c) clause 24 (Governing law and jurisdiction).

**14. Force Majeure**

14.1. The Company shall have no liability or responsibility for failure to perform any obligations under the Contract to the extent it is unable to perform as a consequence of a Force Majeure Event.

14.2. If affected by a Force Majeure Event the Company shall, as soon as reasonably practicable (a) notify the Buyer of the nature and extent of the Force Majeure Event and (b) use all reasonable endeavours to remove any such causes and resume performance under the Contract as soon as feasible.

14.3. If a Force Majeure Event prevents the Company's performance of its obligations for a continuous period of three months, it can terminate the Contract with immediate effect by notice in writing.

14.4. "**Force Majeure Event**" means an event, other than any industrial action, beyond the control of a party, which could not reasonably have been foreseen by such party at the date on which the Contract comes into effect and includes acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) and armed hostilities or other national or international calamity or one or more acts of terrorism.

**15. Bribery Act**

15.1. The Buyer shall:

- (a) comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010
- (b) have and shall maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures under the Bribery Act 2010 and will enforce them where appropriate.

15.2. Breach of this clause by the Buyer shall be deemed a material breach of the Contract.

**16. Severance**

16.1. If any provision of the Contract is found by a court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

16.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

**17. Tooling**

17.1. All tooling, whether made specifically for the Goods or otherwise, shall vest in the Company. The Buyer shall not be exclusively entitled to have any Goods or parts thereof made from any tooling. If the Company makes tooling to the Buyer's design or specification, the Company shall submit to the Buyer samples made from such tooling. Within 30 days of the submission of samples the Buyer shall not:

- a) approve the use of the tooling in the manufacture of the Goods; or
- b) require the Company to, with all reasonable speed, rectify the tooling where it varies from the Buyer's design or specifications. After any such rectification the Company shall resubmit sample parts to the Buyer, and the above provisions shall apply.

17.2. If the Buyer fails to approve or require rectification to the tooling as required above the Company may cancel the contract and the Buyer shall compensate the Company in full for any and all costs, losses and expenses howsoever arising from such cancellation.

17.3. Any part tooling charges as specified in the Purchase Order acceptance shall be paid in full by the date specified in the acceptance or, if not so specified, contemporaneously with payment for the first delivery of Goods hereunder.

**18. Instructions**

The Buyer undertakes to ensure that all product data sheets, warnings, notices or instruction concerning the proper application, fitting, servicing or use of the Goods are passed to any subsequent buyer. The Buyer undertakes that he will observe all recommendations and instructions of the Company to the correct storage and use of the Goods. The Buyer hereby indemnifies and shall hold harmless the Company against any and all losses, costs, expenses and damages howsoever arising as a result of any act or omission by the Buyer in its performance of this obligation.

**19. Health and Safety**

The Buyer shall ensure that the Goods are in accordance with any relevant information or advice which the Company may make available to the Buyer and hereby indemnifies the Company in respect of any and all claims arising as a result of any failure on its part in this respect.

**20. Further assurance**

Each party shall at its own expense promptly execute and deliver all such documents and do all such things or procure the execution and delivery of all documents and doing of all such things as are required to give full effect to the Contract.

**21. Amendment and waiver**

21.1. Any amendment to the Contract shall be in writing and signed by or on behalf of the parties.

21.2. Any waiver of any right under the Contract is only effective if it is in writing and applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.

21.3. No failure to exercise or delay in exercising any right provided under the Contract or by law constitutes a waiver of such right, nor shall it prevent or restrict any future exercise or enforcement of such right or remedy.

## **22. Notices**

22.1. A notice served under the Contract shall be:

- a) in writing and in English;
- b) signed by or on behalf of the party giving it;
- c) sent for the attention of the person, and to the address or fax number given in this clause 22 or such other address, fax number or person as the relevant party may notify to the other party from time to time in accordance with this clause 22.1; and
- d) delivered personally, sent by fax, sent by commercial courier or sent by recorded delivery or (if the notice is to be served by post outside the country from which it is sent) airmail requiring signature on delivery.

22.2. A notice or other communication given in connection with the Contract is deemed to have been received:

- a) if delivered personally, at the time of delivery; or
- b) in the case of fax, at the time of transmission and answerback received;
- c) if sent by commercial courier, at the time of signature of the courier's delivery receipt; or
- d) in the case of airmail, at the time of signature on delivery.

22.3. If deemed receipt is not within business hours (8.15 am to 4.15 pm on a Business Day, the notice shall be deemed to have been received at the opening of business on the next Business Day in the place of receipt.

## **23. Rights of third parties**

No provision of the Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to the Contract.

## **24. Governing law and jurisdiction**

The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English law. The parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation.