

CASTLE CONSTRUCTION PRODUCTS LIMITED

GENERAL CONDITIONS OF PURCHASE FOR GOODS AND COMPONENTS

1 Definitions

1.1 In these Conditions:

'BUYER' means Castle Construction Products Limited (registered in England under company number 09487148);
'COMPONENTS' shall mean the material(s), part(s) or good(s) as specified in the Order;
'CONDITIONS' means these General Conditions of Purchase for Goods and Components;
'CONTRACT' means the contract for the sale and purchase of the Components, comprising the Order and the Conditions;
'DELIVERY ADDRESS' means the delivery address stated on the Order;
'ORDER' means the official purchase order placed by the Buyer with the Seller for the supply of the Components
'PRICE' means the price of the Components;
'SELLER' means the person so described in the Order; and
'SPECIFICATION' includes any plans, drawings, data or other information relating to the Components.

1.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or 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.

1.4 A reference to writing or written includes faxes but not emails.

1.5 References to conditions are to the conditions of these Conditions.

1.6 The words including or includes, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 Basis of purchase

2.1 The Buyer shall purchase and the Seller shall sell the Components in accordance with the Contract. The Components shall include all relevant documentation, including by the way of declaration of conformity, certificate of incorporation, material mill certificates and test and inspection certificates (and any documentation that is set out or referred to in the Contract, or which is otherwise required to comply with any applicable laws or regulations), and all packaging required to ensure the safe transportation of the Components to the Delivery Address.

2.2 The Buyer's Order shall be deemed to be an offer by the Buyer to buy the Components, subject to the terms and conditions of the Conditions. No variation to the Conditions shall be valid unless made in writing and signed by a duly authorized representative of the Buyer. The Contract shall not commence until the Buyer has issued an Order and the Order has been accepted by the Seller:

2.2.1 by returning a copy of the Order signed by the Seller; or, if earlier,

2.2.2 by fulfilling the Order in whole or in part.

The Buyer shall be entitled to withdraw an Order at any time prior to the Order being accepted as detailed herein.

2.3 Subject to any variation under conditions 2.2 or 2.4 and subject to condition 4.3, these Conditions and the Order shall apply to the Contract to the exclusion of any other terms and conditions, including any terms and conditions upon which any quotation has been given to the Buyer or subject to which the Order is accepted or purported to be accepted by the

Seller. In the event of any inconsistency between the Conditions and the Order, the Order shall prevail.

2.4 No variation to the Contract shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

2.5 On receipt of an Order the Seller shall review the Order to ensure that the contents are correct, including the description of the Components (and any Specification relating thereto), the Price, any delivery date and the Delivery Address.

3 Specifications

3.1 The Seller warrants, represents and undertakes to ensure that: the quantity, quality and description of the Components shall, subject as provided in these Conditions, be as specified in the Contract and/or in any applicable Specification supplied by the Buyer to the Seller or agreed in writing by the Buyer; and that the Components shall be capable of any standard of performance specified in the Contract or in any such Specification.

3.2 Any Specification or other information (the "**Confidential Information**") supplied by the Buyer to the Seller, or otherwise acquired by the Seller, or specifically produced by the Seller for the Buyer, in each case in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Confidential Information, shall be the exclusive property of the Buyer. The Seller shall keep the Confidential Information in strictest confidence. The Seller shall not disclose to any third party or use any such Confidential Information except to the extent that it is required for the purpose of the Contract and provided that any such third party is subject to similar obligations as to confidentiality. The Seller shall return the Confidential Information to the Buyer on completion of the Contract or as otherwise directed by the Buyer.

3.3 The Seller shall comply with all applicable regulations or other legal requirements concerning the Components, including those relating to the design, manufacture, packaging, packing, delivery, sale and resale of the Components.

3.4 The Components shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier.

3.5 The provisions of this condition 3 shall survive termination however so arising and shall survive performance, acceptance or payment pursuant to the Contract and shall extend to any substituted or repaired Components provided by the Seller.

4 Price of the Components

4.1 The Price shall be as stated on the Order and, unless otherwise expressly stated in the Order, shall be:

4.1.1 exclusive of any applicable value added taxes or other government added taxes (which shall be payable by the Buyer on receipt of a suitable invoice); and

4.1.2 inclusive of all costs and charges relating to the Components, including any costs and charges for packaging, packing, documentation, insurance, transportation (to ensure that the Contract is fulfilled) and any taxes, duties, or levies other than government added taxes pursuant to condition 4.1.1.

4.2 No increase in the Price may be made without the prior consent of the Buyer in writing in accordance with condition 2.4. Any change to the Price shall be based, as far as possible, on the pricing mechanism applicable to the original Contract, unless otherwise agreed.

4.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not set out in the Contract.

5 Terms of payment

- 5.1 The Seller shall be entitled to invoice the Buyer for the Price on or at any time after delivery of the Components in accordance with condition 6, provided that:
- 5.1.1 where a delivery date is specified in the Contract (or has otherwise been agreed) (the "**Delivery Date**") the Seller shall not submit its invoice until after the Delivery Date, notwithstanding that the Seller effects earlier delivery.
- 5.1.2 the invoice shall quote the number of the Order and such supporting documentation as may be required by the Buyer to identify the Components (or part thereof) to which the invoice relates.
- 5.2 Unless otherwise stated in the Order, the payment shall be made by the Buyer by the fifteenth working day of the second month following the month of receipt by the Buyer of a proper invoice, that is issued in accordance with condition 5.1. Time for payment shall not be of the essence of the Contract. The Buyer shall be entitled to reject any invoice which does not comply with this condition 5 which will result in payment being delayed.
- 5.3 Without prejudice to any other right or remedy under the Contract or otherwise, the Buyer shall be entitled to set off against the Price any sums owed to the Buyer by the Seller.
- 5.4 Payments made by the Buyer do not denote acceptance of any Components and shall be without prejudice to the Buyer's rights and remedies under the Contract or otherwise in relation to the Seller's failure to comply with its obligations under the Contract.

6 Delivery

- 6.1 The Seller shall deliver the Components to the Delivery Address on the date or within the period stated in the Order, in either case during the Buyer's usual business hours and, unless otherwise specified in the Order, the Seller shall off-load the Components at its own risk and as directed by the Buyer. Time of delivery is of the essence of the Contract.
- 6.2 Where the date of delivery of the Components is to be specified after the placing of the Order, the Seller shall give the Buyer reasonable notice of the specified date and shall deliver the Components within a reasonable period of time after the Order has been submitted.
- 6.3 A packing note quoting the number and the date of the Order, the date of delivery and the contents of the delivery must accompany each delivery or consignment of the Components and must be displayed prominently.
- 6.4 If the Components are to be delivered by instalments, the Contract will be treated as a single contract and not severable.
- 6.5 The Buyer shall not be deemed to have accepted any Components until the Buyer has had a reasonable time (which shall in no circumstances be less than 28 days), to inspect them following delivery or, if later, following any latent defect in the Components becoming apparent.
- 6.6 The Seller shall supply the Buyer in good time prior to delivery with any instructions or other information required to enable the Buyer to accept delivery of and use the Components.
- 6.7 The Seller shall ensure that the Components are delivered undamaged and in proper condition and that the Components are properly packed and secured so as to prevent damage and deterioration whilst the Components are in storage and in transit. The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Components, whether or not any Components are accepted by the Buyer.
- 6.8 Before dispatching the Components, the Seller shall carefully inspect and test them to ensure compliance with the Contract.

- 6.9 Without prejudice to any other right or remedy under the Contract or otherwise, if any of the Components are not delivered in accordance with the Contract the Buyer shall be entitled to exercise the remedies in condition 8.2.

7 Risk and Property

Without prejudice to any right of rejection that the Buyer may have and subject to the rest of this condition 7:

- 7.1 risk of damage to or loss of the Components shall pass to the Buyer upon acceptance by the Buyer of the Components in accordance with the Contract.
- 7.2 the property in the Components shall pass to the Buyer upon delivery, unless payment for the Components is made prior to delivery, when it shall pass to the Buyer once payment has been made.

Notwithstanding the foregoing, if the Buyer exercises its rights under condition 9, property in the Uncompleted Components (as defined therein) shall pass to the Buyer when the Buyer requests delivery and risk in the Uncompleted Components shall pass to the Buyer when it is delivered to the Buyer.

8 Obligations, remedies and liability

- 8.1 The Seller warrants, represents and undertakes to ensure that the Components:
- 8.1.1 will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Seller or made known to the Seller in writing before or on submission of the Order;
- 8.1.2 will be free from any faults or defects, including any defects in design, material and workmanship;
- 8.1.3 will correspond with any relevant Specification or sample; and
- 8.1.4 will comply with all applicable regulations and other legal requirements, including those relating to the design, manufacture, packaging, packing, delivery, sale and resale of the Components.
- 8.2 Without prejudice to any other right or remedy under the Contract or otherwise, if any part of the Components are found not to be in accordance with the Contract, or if the Seller has not complied with any of its obligations under the Contract (a "**Failure**"), then the Buyer shall be entitled to avail itself of any one or more of the following remedies (whether or not any part of the Components has been accepted by the Buyer):
- 8.2.1 to rescind the Contract.
- 8.2.2 to terminate the Contract without liability to the Seller.
- 8.2.3 to refuse to accept any subsequent delivery of the Components without liability to the Seller and to recover from the Seller any money already paid by the Buyer in respect of such Components.
- 8.2.4 to reject the Components (or any part thereof) already delivered, and return the rejected Components to the Seller (at the Seller's risk and expense), or make the rejected Components available for the Seller to collect, and recover from the Seller any money already paid by the Buyer in respect of such rejected Components.
- 8.2.5 to give the Seller the opportunity, at the Seller's expense, to repair or replace the Components, in which case, the Seller shall repair or replace the Components in accordance with the Buyer's instructions, in the shortest possible time frame and with minimum inconvenience to the Buyer, so that the Components (and the Seller) complies with the Contract.
- 8.2.6 at the Seller's expense, to carry out any work necessary to make the Components comply with the Contract (including repairing the Components (or any part thereof)), or procuring replacement components.
- 8.2.7 to recover from the Seller any liquidated damages set out in the Order and any other liquidated damages that the Buyer is due to pay as a result of the Failure.
- 8.3 The Seller shall indemnify the Buyer (its employees, sub-contractors, agents and customers (the "**Indemnitees**")) in

full against all claims, liability, loss, damages, costs and expenses (including legal expenses), whether direct, indirect or consequential, awarded against or incurred or paid by the Buyer (or any of the Indemnitees) as a result of or in connection with:

- 8.3.1 breach of warranty or breach of Contract by, or negligence of, the Seller, or any defect or fault in, or failure of the Components or any other Failure (as defined in condition 8.2); and
- 8.3.2 infringement or alleged infringement of any patent, copyright, design right, trade mark, trade name (whether registered or unregistered) or other intellectual property rights, relating to the Components or the Contract.
- 8.4 The Buyer's rights under the Contract are in addition to the statutory terms implied in favour of the Buyer by the Sale of Goods Act 1979 and any other applicable statute. The provisions of this condition 8 shall survive termination of the Contract howsoever arising and shall survive performance, acceptance or payment pursuant to the Contract and shall extend to any substituted or repaired Components provided by the Seller.
- 8.5 Neither the Seller nor the Buyer shall be liable to the other or be in breach of Contract by reason of any delay in performing, or any failure to perform, any of its obligations, if the delay or failure is beyond that party's reasonable control and arises as a result of a Force Majeure (including fire, flood, earthquake or any other natural disaster), or a war or a terrorist attack.

9 Termination

- 9.1 The Buyer shall be entitled to terminate the Contract in respect of all or part only of the Components by giving notice to the Seller at any time, in which event, notwithstanding any other provision of the Contract, the Buyer's sole liability shall be to pay to the Seller any direct costs incurred by the Seller, in respect of which the Seller can produce documentary evidence, and which have been incurred up to and including the date of termination, provided always that such direct costs do not exceed the part of the Price that is attributable to the part of the Contract that has been terminated. In such circumstances the Seller shall, where requested by the Buyer, deliver to the Buyer any part of the Components the Buyer has paid for (the "**Uncompleted Components**").
- 9.2 The Buyer may terminate any Contract with the Seller without liability forthwith by giving written notice to the Seller on or at any time after the occurrence of any of the following events:
 - 9.2.1 the Seller being in breach of an obligation under the Contract and, if the breach is capable of remedy within 30 days (where time is not of the essence in performance of the obligation), failing to remedy the breach within 30 days of receipt of notice from the Buyer giving details of the breach and requiring the Seller to remedy the breach;
 - 9.2.2 the Seller passing a resolution for its winding up or a court of competent jurisdiction making an order for the Seller to be wound up or dissolved or the Seller being otherwise dissolved;
 - 9.2.3 the appointment of an administrator (whether out of court or otherwise) of or the making of an administration order in relation to the Seller, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or part of the Seller's undertaking, assets, rights or revenue;
 - 9.2.4 the Seller being unable to pay its debts or being deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - 9.2.5 the Seller entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or taking steps to obtain a moratorium or making an application to a court of competent jurisdiction for protection from its creditors;
 - 9.2.6 the directors of the Seller or any other person requesting the appointment of, or giving notice of their intention to appoint, or taking any step with a view to appointing, a liquidator,

trustee in bankruptcy, administrator (whether out of court or otherwise) or similar officer;

- 9.2.7 the Seller ceasing, or threatening to cease, to carry on business;
- 9.2.8 any similar step or proceeding to those outlined in conditions 9.2.2 to 9.2.7 above being taken or made in respect to the Seller in any jurisdiction to which the Seller is subject;
- 9.2.9 any similar step or proceeding to those outlined in conditions 9.2.2 to 9.2.8 above being taken or made in respect of any member of the Seller's group;
- 9.2.10 the Buyer reasonably apprehending that any of the events outlined in conditions 9.2.2 to 9.2.9 above is about to occur; or
- 9.2.11 a change of Control of the Seller, where "Control" shall have the meaning given in section 840 of the Income and Corporation Taxes Act 1988.
- 9.3 Subject to the remainder of this condition 9, upon termination having been effected by the Buyer, it shall have no obligation under the Contract to accept delivery of any Components or to pay for the same.

- 9.4 Termination of the Contract, howsoever arising, shall not affect or prejudice the accrued rights of the parties as at termination, or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

10 General

- 10.1 The Contract is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract without the prior written consent of the Buyer. Any sub-contracting made (whether with or without the Buyer's consent) shall not relieve the Seller of any of its obligations under the Contract and the Seller shall be responsible for the acts and omissions of its sub-contractors. The Buyer may assign the Contract or any part of it to any person, firm or company without consent.
- 10.2 Any notice required or permitted to be given by either party to the other under the Contract shall be in writing and may be delivered personally or by pre-paid first class post. Notices shall be delivered or sent to the address of the other party set out in the Order, or to such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and in the case of a notice to the Buyer, the notice shall be marked for the attention of the Buyer's representative as set out in the relevant Order.
- 10.3 No failure or delay by the Buyer to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. Any waiver by the Buyer must be agreed in writing. No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.4 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be illegal, invalid or unenforceable, that provision (or part-provision) shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 10.5 A person who is not party to a Contract with the Buyer shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of such Contract. This condition does not affect any right or remedy of any person, which exists or is available otherwise than pursuant to that Act.
- 10.6 Each right or remedy of the Buyer under the Contract is without prejudice to any other right or remedy of the Buyer whether under the Contract or not.
- 10.7 The Contract shall be governed by the laws of England, and the parties submit to the exclusive jurisdiction of the English courts.