

TRI MANAGEMENT LTD STANDARD TERMS AND CONDITIONS OF SALE AND SERVICE

1. Definitions

In these Terms and Conditions, the following expressions shall bear the following meaning respectively :-

“Contract” means any contract between the Client and the Supplier incorporating these conditions for the sale of Products and/or the provision of the Services.

“Liability” means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities.

“Products” means any products and/or goods ordered from the Supplier by the Client or any goods, products and/or materials which are to be utilised in the performance of Services and in which the title is intended to pass to the Client once the Services have been completed.

“Services” mean the services and/or work to be performed by the Supplier for the Client.

“Supplier” means Tri Management Ltd (Company No. 4061381) whose principle place of business is at 4 Park Parade, Park Road, Farnham Royal, Bucks, SL2 3AU.

“Client” means the person whose order for Products and/or Services is accepted by the Supplier or to whom the Supplier supplies the Products and/or Services.

2. Basis of Contract

2.1 No terms or conditions proposed or stipulated by the Client and no other terms, conditions, warranties, particulars, standards, criteria, specifications and other matters, whether written or oral, expressed or implied, shall form part of or deemed incorporated into the Contract unless agreed in writing by a duly authorised representative of the Supplier.

2.2 These terms and conditions shall apply to the Contract to the exclusion of all other terms and conditions including any terms and conditions previously notified to the Client.

2.3 No variation to these terms and conditions shall be binding to the Supplier unless contained within the Suppliers tender or agreed in writing between the Client and Supplier.

2.4 The Client acknowledges that it has relied upon no representations for the purpose of entering into the Contract.

3. Order and Contract

3.1 Tenders are not binding or capable of acceptance and are estimates only (unless stated otherwise) and shall be valid for a period of 30 days.

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- 3.2 The Supplier shall have the right to refuse to accept any orders placed for Products and/or Services. Acceptance must be in writing by the Suppliers authorised representative.
- 3.3 The Client shall be responsible for the accuracy of an order and for giving the Supplier any information necessary for the Supplier to perform the Contract.
- 3.4 If the Client approves any test and/or sample work performed by the Supplier then the Client shall have no claim in respect of, nor any right to reject, any Products and/or Services provided the Products and/or Services are the same description, specification, quality and fitness for purpose as the test and/or sample work as appropriate.
- 3.5 Where delivery of the Products and/or performance of the Services is cancelled or postponed at the request of the Client, without having given reasonable notice and obtaining the written approval of the Supplier, then the Client must pay all costs and expenses incurred by the Supplier including but not limited to reasonable costs for staff, labour, stand down, storage, transportation, materials and insurance.

4 Specification

- 4.1 The quantity, quality, description and/or specification for the Products and/or Services shall be that set in the Supplier tender (if agreed by the Client) or the Client order (if agreed by the Supplier).
- 4.2 The Client is responsible for checking the tender and being satisfied that any specification given is adequate and accurate for the Products and/or Services. The Supplier shall have no liability for errors in any specification supplied by the Client and the Client is solely responsible for their accuracy.
- 4.3 Product detail and/or specifications in any marketing material and price lists produced by the Supplier are intended as a guide only and only give a general approximation of the Products and/or Services.
- 4.4 The Client agrees to indemnify and keep indemnified the Supplier against any and all losses, liabilities costs (including legal costs on full indemnity basis and increased administration costs) and/or expenses arising out of the Supplier use of information, specifications, drawings and/or details supplied by the Client.
- 4.5 The Supplier reserves the right to make changes to the specification of the Products and/or the conduct of the Services as required by law, manufacturing requirements or manufacturing requirements provided that they do not have any material adverse effect on the quality and/or performance of the Products and/or Services.

5 Site

- 5.1 The Client will allow free of charge, clear and unrestricted access to the Supplier's employees, sub-contractors and agents to allow them to carry out the Services.
- 5.2 The Client will free of charge sufficient unloading space, facilities (including welfare facilities), equipment and access to power supplies to allow the services to be carried out.

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- 5.3 The Client will be responsible providing security, safe storage of Products, removal of any asbestos materials and building works at the site for the Services. These are to be provided at the Client's cost and are not the responsibility of the Supplier.
- 5.4 The Client is to ensure that the site where the Services are to be performed is cleared and prepared before the Services are due to commence.
- 5.5 All containment and services must be installed prior to the commencement of the Supplier's Services unless the Supplier agrees otherwise.
- 5.6 Services are to be carried out in a continuous period in the specified hours unless the Supplier agrees otherwise.
- 5.7 The Client will comply with the provisions in this section 5 at the times relevant to when the Services are being performed. This may involve compliance outside normal working hours including weekends and nights.

6 Delivery

- 6.1 The Supplier will use reasonable commercial endeavours to ensure delivery and/or performance on the dates specified. Dates for delivery and/or performance are estimates only and are not guaranteed. In relation to such dates, time is not of the essence. Dates are also subject to any matter beyond the Supplier's control.
- 6.2 Where the Services are to be performed in stages, each separate stage shall constitute a separate and distinct contract and failure by the Supplier to deliver or any claim by the Client in respect of any stage, shall not entitle the Client to repudiate and/or terminate the Contract as a whole.
- 6.3 If the Supplier has not complied with any date for delivery and/or performance, the Client must give the Supplier not less than 14 days written notice requiring the Contract to be performed. Only if the Supplier has not complied with such performance after this period is the Client entitled to reject Products and/or Services for late delivery and/or performance.
- 6.4 If the Client refuses to take delivery of any Products and/or to allow performance of the Services then the Supplier shall be entitled to withhold delivery and/or performance of any other products and/or Services and to treat the Contract as repudiated by the Client and shall have the right to rescind the Contract.

7 Property and Risk

- 7.1 Risk of damage to or loss of the Products utilised in the Services shall pass to the Client upon delivery to the site where they are to be utilised. The Supplier will replace free of charge any Products in which risk has passed to the Client if they are damaged or lost due to the neglect or default of the Supplier.
- 7.2 The Supplier shall retain title and ownership of the Products until the Supplier has received payment in full in cash or cleared funds of all sums due and/or owing for all Products and/or Services supplied to the Client by the Supplier under the Contract and any other agreement between the Client and Supplier.

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- 7.3 Until payment is received in full of the price for all Products supplied to the Client, the Products shall be stored separately from any products or goods belonging to the Client or an third party and must be clearly marked and identified as being the Supplier's property. The Client agrees that the Supplier's employees shall be entitled to enter the Client premises to check compliance with this clause.
- 7.4 Until title in the Products has passed to the Client, the Client shall keep the Products insured for the price at which the Products were sold to the Client against all normal risks and shall procure that the Supplier's interest is noted on such policy of insurance. The Client shall hold any proceeds of any policy of insurance in relation to the Products on trust for the Supplier upon receipt of the same and account to the Supplier for any proceeds of any policy of insurance in relation to the Products upon receipt of the same. Any monies received from the Client by the Supplier in accordance with this clause shall not discharge the Client's liability to pay the price for the goods plus interest but shall be set off against any such liability.

8 Acceptance of Services

- 8.1 Once the Services (or any stage of the Services as appropriate) is complete, the Supplier shall conduct the Supplier's standard acceptance tests in relation to the subject matter of the Services.
- 8.2 If any aspect of the Services does not meet or satisfy the Supplier's standard acceptance test, then the Supplier shall correct such defects or problems in the Services within a reasonable period and then re-conduct the standard acceptance tests.
- 8.3 The Services shall be completed and the Client shall be deemed to accept the Services once the Supplier's standard acceptance tests have been successfully completed.
- 8.4 The guarantee period in section 13 for any particular part of the Services or for part of a site shall commence from the date the Client is deemed to accept the Services.

9 Credit Limit

- 9.1 The Supplier may set a credit limit for the Client. The supplier reserves the right to refuse to accept orders for Products and/or Services and/or to suspend or withhold delivery of Products and/or the performance of the Services if such Products and/or Services would result in the Client exceeding the credit limit or the credit limit is already exceeded.

10 Price

- 10.1 The price of the Products and/or the Services shall be as quoted to the Client or as otherwise agreed in writing at the date of the acceptance of the order.
- 10.2 The Supplier may increase the prices for the Services where provision for increases is contained in the Supplier's tender or it has otherwise been agreed that prices may be increased.
- 10.3 Prices are exclusive of any applicable VAT for which the Client shall be additionally liable.
- 10.4 Terms of payment are net cash within 30 days of invoice.

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- 10.5 If the Client fails to make payment in full on the due date, the Supplier reserves the right to charge the Client interest (before and after judgement) on the amount unpaid at the rate of 4.5% above the base rate from time to time of Barclays Bank Plc. Such interest shall be compounded with quarterly rests.
- 10.6 The Supplier shall be entitled to invoice each delivery of Products and/or Stage of the Services separately.
- 10.7 The Client shall pay all sums due to the Supplier under this Contract without any set-off, deduction, counterclaim and/or any other withholding of monies.
- 10.8 Payment shall not be deemed to be made until the Supplier has received either cash or cleared funds in respect of the full amount outstanding.

11 Intellectual Property Rights and Confidentiality

- 11.1 All intellectual property rights (including without limitation all patents, copyright, design rights (whether registered or unregistered), trademarks (whether registered or unregistered), skill and/or know-how and other similar rights, whether existing now and/or in the future, wherever existing in the world together with the right to apply for protection of the same in the Products, their packaging and/or arising from the Services, shall be owned by the Supplier.
- 11.2 Each party agrees with the other that it will keep all confidential business information regarding the other party confidential and not disclose or use such information which may be disclosed to it or which it may learn except where such information is public knowledge or it is required to be disclosed by law.
- 11.3 Each party may make public announcements regarding the existence of this Contract and the identity of the parties to this Contract. Details of any such announcement shall be provided to the other party before any such announcement is made.

12 Default

- 12.1 If the Client:-
 - 12.1.1 Fail to make any payment to the Supplier when due;
 - 12.1.2 Breach the terms of this Contract (and if the breach is capable of remedy, have not remedied the breach within 14 days of receiving notice requiring the breach to be remedied);
 - 12.1.3 Persistently breach any one or more terms of this Contract;
 - 12.1.4 Pledge or charge any Products which remain the Supplier's property, or cease or threaten to cease to carry on business, or propose to compound with creditors, apply for an interim order under Section 252 Insolvency Act 1986 or have a Bankruptcy Petition presented to the Client, enter into voluntary or compulsory liquidation, have a receiver, administrator or administrative receiver appointed over all or any assets, or take or suffer any similar action in any jurisdiction; and/or
 - 12.1.5 Appear to the Supplier due to the Client credit limit and/or credit rating to be financially inadequate to meet the Client obligations under the Contract; then the Supplier shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 12.2 below.

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- 12.2 If any of the events set out in clause 12.1 above occurs in relation to the Client then:-
- 12.2.1 The Supplier may enter, without prior notice, any of the Client premises (or premises of third parties with their consent), where Products owned by the Supplier may be and repossess and dispose of or sell any Products found which are owned by the Supplier so as to discharge any sums due to the Supplier under this Contract or any other agreement with the Client;
- 12.2.2 The Supplier may require the Client not to re-sell or part with the possession of any Products owned by the Supplier until the Client has paid in full all sums due to the Supplier under this Contract or any other agreement with the Client;
- 12.2.3 The Supplier may withhold delivery of any undelivered Products and stop any products in transit;
- 12.2.4 The Supplier may withhold the performance of any Services and cease any Services in progress;
- 12.2.5 The Supplier may cancel, terminate and/or suspend without Liability to the Client this Contract;
- 12.2.6 The Supplier may cancel, terminate and/or suspend without Liability to the Client any agreement with the Client and/or all monies owed by the Client to the Supplier shall forthwith become due and payable.

13 Guarantee

- 13.1 The Supplier guarantees that the Products and/or each stage of the Services will be free from defects in materials and/or workmanship for a period of 12 months from:-
- 13.1.1 In the case of Services, the date of completion of the performance of the relevant stage of Services and the Client deemed acceptance of that stage of the Services; and/or
- 13.1.2 In the case of the sale of products (in the absence of the provision of Services) the date of delivery of the Products to the Client.
- 13.2 The guarantee in clause 13.1 above is given by the Supplier subject to the following conditions:-
- 13.2.1 The Supplier shall be under no Liability in respect of any defect in the Products and/or Services arising from any design, specification or drawing supplied by the Client; and/or
- 13.2.2 The Supplier shall be under no Liability in respect of any faults or defects arising after risk in the Products has passed which is caused by any subsequent damage not due to a defect in the Products and/or Services as appropriate or any faults or defects caused by wilful damage, abnormal working conditions, failure to follow the Suppliers instructions, misuse, alteration or repair of Products and/or Services without the Supplier approval, improper maintenance or negligence on behalf of the Client or a third party.

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- 13.3 If any Products and/or Services prove to be defective and are covered by the guarantee in clause 13.1 above, then the Supplier at the Suppliers sole option either repair or replace or re-perform such Products and/or Services or refund the price for such Products and/or Services. Provided the Supplier complies with this clause, the repair, replacement, re-performance and/or refund shall be the Clients sole remedy in respect of claims under the guarantee under clause 13.1.
- 13.4 Any work carried out by the Supplier which is not covered by the guarantee in clause 13.1 above will be charged for.
- 13.5 The Supplier shall have no Liability to the Client under the guarantee in clause 13.1 above unless any defect is notified to the Supplier with 14 working days of the defect becoming apparent or suspected or when it should reasonably have become apparent to or suspected by the Client. The Supplier agrees that the Supplier will repair, replace or re-perform defective Products and/or Services covered by the guarantee in clause 13.1 above within a reasonable time of being notified by the Client of the defect.
- 13.6 The guarantee in clause 13.1 above will not apply if the Client has not paid in full for the relevant Products and/or Services on the due date for payment.

14 Repairs and Replacements

- 14.1 The Supplier, will at the Suppliers option, either refund the price, repair, replace free of charge or re-perform any defective Products and/or Services, where the defect is apparent on inspection, provided that the defect is notified to the Supplier within 14 working days of delivery of such Products or performance of the Services.
- 14.2 The Supplier shall have the right, upon the request of the Supplier, to inspect the subject matter of any allegedly defective Services at a mutually convenient time and the Supplier will not have any Liability for defective Services until the Supplier has been allowed to make such inspection.
- 14.3 At the Suppliers sole discretion, the Supplier will replace, repair free of charge, re-perform or refund the price of defective Products and/or Services which are not notified to the Supplier within the specified time limit where in the Suppliers opinion, the defect would not have been ascertainable on inspection and has been notified to the Supplier as soon as reasonably practicable.

15 Limitations on Liability

- 15.1 The Supplier shall have no Liability to the Client for defective Products and/or Services, Products not despatched or Products damaged or lost in transit unless the event is notified to the Supplier within the appropriate time limit set out in this Contract.
- 15.2 The Supplier shall have no Liability for additional damage, loss, liability, claims, costs or expenses caused or contributed to by the Clients continued use of defective Products and/or Services after a defect has become apparent or suspected or should reasonably have become apparent to the Client.
- 15.3 The Client shall give the Supplier a reasonable opportunity to remedy any matter for which the Supplier is liable before the Client incurs any costs and/or expenses in remedying the matter. If the Client does not give the Supplier the opportunity the remedy the matter, then the Supplier will have no Liability to the Client.

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- 15.4 The Supplier shall have no Liability to the Client for any:-
- 15.4.1 Consequential losses;
 - 15.4.2 Loss of profits and/or damage to goodwill;
 - 15.4.3 Economic and/or other similar losses;
 - 15.4.4 Special damages and indirect losses;
 - 15.4.5 Loss of data and/or information; and/or
 - 15.4.6 Business interruption, loss of business, contracts, opportunity and/or production.
- 15.5 The Suppliers total Liability to the Client in relation to this Contract (whether or not due to a number of claims), shall not exceed the lower of the Price or any amounts the Client has paid the Supplier towards the Price.
- 15.6 Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:-
- 15.6.1 Liability for breach of contract;
 - 15.6.2 Liability in tort (including negligence);
 - 15.6.3 Liability for breach of statutory duty;
 - 15.6.4 Liability for breach of common law, except clause 15.5 above which shall apply once only in respect of all said types of Liability.
- 15.7 Nothing in this Contract shall exclude or limit the Supplier's Liability for death or personal injury due to the Supplier's negligence or any Liability which is due to the Supplier's fraud or any other Liability which it is not permitted to exclude or limit as a matter of law.
- 15.8 All warranties, terms, conditions and duties implied by law relating to fitness, quality or adequacy are excluded to the fullest extent permitted by law.

16 General

- 16.1 The Client agrees to indemnify and keep indemnified the Supplier against any and all losses, liabilities, costs and expenses suffered by the Supplier and arising from or due to any breach of contract, any tortious act and/or omission and/or any breach of statutory duty by the Client.
- 16.2 Any notices served under this Contract shall be sent to the address of each party as noted in the relevant tender and, in the alternative in relation to the Client, to the Client registered office or principal place of business.
- 16.3 No waiver by the Supplier of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision.
- 16.4 If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.

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- 16.5 The Supplier shall have no liability to the Client for any delay in performance of this Contract to the extent that such delay is due to any events outside of the Suppliers reasonable control including but not limited to acts of God, war, commotion, malicious damage, explosion, government actions and any other similar events. If the Supplier is affected by any such event, then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.
- 16.6 The Client shall not assign, delegate and/or place in trust, the Clients interest in the Contract (or any part) without written permission from the Supplier.
- 16.7 All third party rights are excluded and no third party shall have any right to enforce this Contract. Any right of a third party to enforce this Contract may be varied and/or extinguished by agreement between the parties to this Contract, without the consent of such third party.
- 16.8 These terms and any contract of which they form, shall be governed and construed in accordance with English Law and the Client and Supplier submit to the non-exclusive jurisdiction of the English Courts.