

TEST VALLEY LTD STANDARD CONDITIONS OF SALE

1. INTERPRETATION

(a) In these Standard Conditions of Sale ("Conditions"):

'the Contract' means any contract between the Seller and the Purchaser for the sale and purchase of the Goods, incorporating these Conditions.

'the Goods' means all products supplied by the Seller to the Purchaser pursuant to a Contract.

'the Seller' means Test Valley Limited (6991925) whose registered office is Watt Road, Salisbury, SP2 7UD

'the Purchaser' means the person or persons firm or company purchasing Goods from the Seller.

(b) A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

2. ACCEPTANCE

(a) Each order or acceptance of a quotation by the Purchaser shall be deemed to be an offer by the Purchaser to buy Goods from the Seller subject to these Conditions. No order placed, nor acceptance of a Quotation, by the Purchaser shall be deemed to be accepted by the Seller until a written acknowledgement of order is issued by the Seller or (if earlier) the Seller delivers the Goods to the Purchaser. Quotations and orders are only capable of being accepted subject to these Conditions, acceptance of which by the Purchaser must be unqualified. If any qualification or variation is made by the Purchaser it shall not form part of the Contract unless expressly agreed in writing by the Seller. Furthermore these Conditions over-ride all clauses with a contrary intention whether printed or not which may be proposed by the Purchaser until expressly accepted in writing by the Seller.

(b) The Purchaser shall ensure that its order, and any quotation which it accepts, accurately states the description, specification and quantity of Goods to be purchased.

(c) The Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract.

3. QUOTATIONS AND PRICE

(a) A quotation is valid for a period of 30 days only from the date thereof, provided that the Seller has not previously withdrawn it. Any quotation is made subject to these Conditions and no alterations, exclusions, additions or qualifications to the quotation and specification will be made unless confirmed in writing by the Seller.

(b) All prices quoted or accepted are exclusive of Value Added Tax and all costs and charges in relation to packaging, delivery, storage and insurance costs. Unless otherwise agreed by the Seller in writing, the price for the Goods shall be the price set out in the quotation or acknowledgement of order.

4. PAYMENT

(a) All invoices are due and payable not later than 30 days from the end of the month in which the invoice is dated (the 'Due Date'). Time for payment shall be of the essence.

(b) There shall be no payment for the purpose of these Conditions until payment has been received by the seller in cash or cleared funds.

(c) The Seller reserves the right to charge interest at the rate of 3% above the base rate from time to time of Barclays Bank plc on all overdue amounts, such interest being deemed to accrue on a day to day basis from the Due Date until payment is received in cash or cleared funds.

(d) If the Purchaser (being a company) fails to pay any invoice by the Due Date its directors will be personally, jointly and severally liable to the Seller.

(e) If at any time any sum owed by the Purchaser to the Seller is overdue, the Seller reserves the right to withhold delivery or the Goods or any other goods to be supplied to the Purchaser by the Seller until such time as all monies due to the Seller have been paid.

(f) The Purchaser shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Purchaser has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Purchaser.

5. DELIVERY

(a) Unless otherwise agreed in writing by the Seller, delivery of the Goods shall take place at the Purchaser's place of business (as notified to the Seller).

Delivery will be deemed to have been effected after the Goods leave the premises of the Seller or as the case may be the premises of the Seller's supplier in circumstances where the Goods are delivered direct from such suppliers.

(b) Any dates specified by the Seller for delivery of the Goods are intended to be an estimate and time of delivery shall not be of the essence. If no dates are specified for delivery, delivery shall be within a reasonable time.

(c) The Seller shall not be liable for any losses, costs, damages, charges or expenses whatsoever or howsoever arising caused by its delay in delivering the

Goods (even if caused by the Seller's negligence), non-delivery of Goods or by its failure to make Goods ready for collection on the specified delivery date nor shall any delay, non-delivery or failure entitle the Purchaser to terminate or rescind the Contract unless such delay exceeds 180 days.

(d) The Seller reserves the right to make delivery by installments and to tender a separate invoice in respect of each installment. Each installment shall be a separate Contract

(e) When delivery is to be by installments or the Seller exercises his right to deliver by installments under Condition 5(d) if there is a delay in the delivery of one or more installments for whatever reason and the Contract is terminated this will not entitle the Purchaser to treat any other Contract as repudiated or to make a claim for damages in respect of any such Contract.

(f) The Seller reserves the right to make a delivery charge according to the circumstances of each order. Deliveries will be charged at £25.00 where the net Goods value is £150.00 or less (unless otherwise agreed in writing). Special deliveries will be charged at cost to the Purchaser.

(g) If for any reason the Purchaser fails to accept delivery of any of the Goods, or the Seller is unable to deliver the Goods on time because the Purchaser has not provided appropriate instructions or documents then risk in the Goods shall pass to the Purchaser (including for loss or damage caused by the Seller's negligence), the Goods shall be deemed to have been delivered and the Seller may store the Goods until delivery, whereupon the Purchaser shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

(h) The quantity of any consignment of Goods as recorded by the Seller (or the Seller's supplier) on despatch shall be conclusive evidence of the quantity received by the Purchaser on delivery unless the Purchaser can provide conclusive evidence proving the contrary.

(i) The Seller shall not be liable for any non-delivery of Goods (even if caused by the Seller's negligence) unless the Purchaser gives written notice to the Seller of the non-delivery within 7 days of the date when the Goods would in the ordinary course of events have been received. Any liability of the Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. TERMINATION

The Contract and the Purchaser's right to possession of the Goods shall terminate immediately if:

(a) the Purchaser has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory), or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Purchaser or notice of intention to appoint an administrator is given by the Purchaser or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Purchaser or for the granting of an administration order in respect of the Purchaser, or any proceedings are commenced relating to the insolvency or possible insolvency of the Purchaser; (b) the Purchaser suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Seller and the Purchaser, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Purchaser ceases to trade;

(c) the Purchaser encumbers or in any way charges any of the Goods;

(d) the Purchaser fails to pay an amount due within 60 days of the Due Date;

(e) commits a serious breach of these Conditions and fails to remedy such breach within 7 days of receiving notice that it must do so.

All payments due to the Seller under the Contract shall become due immediately on its termination.

7. QUANTITY

Delivery of a shortage or surplus not exceeding ten per cent shall be considered due execution of any order and the Purchaser shall not be entitled to object to or reject the Goods or any of them by reason of the shortage or surplus or and shall pay for such Goods at the pro rata Contract rate.

8. MANUFACTURING STANDARDS

(a) All products are supplied in accordance with recognised trade tolerances. Every endeavour will be made by the Seller to match colours but exact matching cannot be guaranteed. Material thickness is calculated on a plus or minus 10% tolerance and sizes give are subject to a plus or minus 5% tolerance.

(b) The Seller warrants that (subject to the other provisions of these Conditions) on delivery the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (the "Warranty").

(c) The Seller shall not be liable for a breach of the Warranty unless the Purchaser gives written notice of the defect to the Seller, and, if the defect is as a result of damage in transit to the carrier, within 7 days of the time when the Purchaser discovers or ought to have discovered the defect and the Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Purchaser (if asked to do so by the Seller) returns such Goods to the Seller's place of business for the examination to take place there. The Seller

shall not be liable for a breach of the Warranty if the Purchaser makes any further use of such Goods after giving such notice, or if the defect arises because the Purchaser failed to follow the Seller's oral or written instructions as to the storage, use or maintenance of the Goods or (if there are none) good trade practice or the Purchaser alters or repairs such Goods without the written consent of the Seller.

(d) Subject to Condition 9(c), if any of the Goods do not conform with the Warranty the Seller shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Seller so requests, the Purchaser shall return the Goods or the part of such Goods which is defective to the Seller.

(e) If the Seller complies with Condition 9(d) it shall have no further liability for a breach of the Warranty in respect of such Goods.

9. SKETCHES AND ORIGATION WORK

All sketches and origination work, and any intellectual property rights therein, at all times remain the property of the Seller.

10. SPECIAL PRINTING AND CONSTRUCTION

Alterations from original copy on and after the first proof including alterations in style of construction will be charged extra. Proofs of all work may be submitted for the Purchaser's approval and no responsibility will be accepted for any errors in proofs which may be passed by him. The Purchaser shall be solely responsible for any matter which the Seller causes to be printed on the Goods on the instructions or at the request of the Purchaser, for any design or construction which the Seller causes to be executed on the instruction or at the request of the Purchaser whether the same shall have been supplied by the Seller or by the Purchaser, and solely responsible for any claim or proceedings made or brought by a third party arising therefrom.

11. CLAIMS

Complaints or claims will only be entertained if notified in writing by the Purchaser to the Seller within three days of the delivery of the Goods complained of. Claims related to the transport of Goods must be notified immediately on receipt to enable the Seller to comply with the time limit procedure of carriers by whom the Goods were transported. The return of Goods will not be accepted until the Seller or his representative shall first have had the opportunity of examining them and given his consent in writing.

12. LIMIT OF LIABILITY

(a) The following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Purchaser in respect of any breach of these Conditions, any use made or resale by the Purchaser of any of the Goods, any error in printing applied to the Goods and any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

(b) All warranties, conditions and other terms implied by statute or common law (save 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.

(c) Nothing in these Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence, for any obligation implied under section 2(3), Consumer Protection Act 1987, for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability or for fraud or fraudulent misrepresentation.

(d) Subject to this Condition 12 the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price and the Seller shall not be liable to the Purchaser for loss of profit, loss of business, or depletion of goodwill (in each case whether direct, indirect or consequential) or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

13. RETENTION OF TITLE

(a) The risk in the Goods shall remain with the Seller until delivery to the Purchaser whereupon it shall pass to the Purchaser.

(b) The Goods shall remain in the property of the Seller and the Purchaser shall hold the Goods as bailee for the Seller until such time as all sums owing to the Seller:

(i) in respect of the Goods; and

(ii) under any other contract between the Seller and the Purchaser;

are received by the Seller in cash or cleared funds.

(c) Without prejudice to the Purchaser's continuing obligation to the Seller as bailee of the Goods the Purchaser shall be entitled to resell the Goods in the ordinary course of its business at full market value so long as any such sale shall be a sale of the Seller's property on the Purchaser's own behalf and the Purchaser shall deal as principal when making such a sale.

(d) The Purchaser grants to the Seller, its agents and employees an irrevocable licence to enter any premises where the Goods are or may be kept to repossess them in accordance with Condition 6.

(e) Until ownership of the Goods has passed to the Purchaser, the Purchaser shall hold the Goods on a fiduciary basis as the Seller's bailee, store the Goods (at no cost to the Seller) separately from all other goods of the Purchaser or any third party in such a way that they remain readily identifiable as the Seller's property, not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods, maintain the Goods in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks to the

reasonable satisfaction of the Seller. On request, the Purchaser shall produce the policy of insurance to the Seller.

(f) The Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Seller.

(g) Where the Seller is unable to determine whether any Goods are the Goods in respect of which the Purchaser's right to possession has terminated, the Purchaser shall be deemed to have sold all goods of the kind sold by the Seller to the Purchaser in the order in which they were invoiced to the Purchaser.

(h) On termination of the Contract, howsoever caused, the Seller's (but not the Purchaser's) rights contained in this Condition 13 shall remain in effect.

14. COST VARIATION

Prices may be revised in the event of any increase in costs to Seller between acceptance of a quote or receipt of an order and actual date of delivery to the Purchaser.

15. PURCHASER'S PROPERTY

The Purchaser's property, when supplied to the Seller, will be held at the purchasers risk. Every care will be taken to secure the best results where materials are supplied but responsibility will not be accepted for imperfect work caused by unsuitability of such materials.

16. EXCLUSION OF SALE BY SAMPLE

Notwithstanding that in connection with any order the Seller may submit a sample of the Goods to the Purchaser as indicating the quality, colour or type of goods which may be supplied, no order for Goods or acceptance thereof shall be deemed to constitute a sale by sample. All samples, drawings, descriptive matter, specifications and advertising issued by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

17. FORCE MAJEURE, ETC.

The Purchaser shall not be liable for any delay in delivery, non-delivery of some or all of the Goods or cancellation of the Contract which is caused by any circumstance beyond the Seller's control including without limitation any fire, flood, breakdown of machinery, strike, lock out, Court Order, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, epidemic or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

18. GENERAL

(a) The Seller may change these Conditions (including the charges) at any time subject to the Purchaser receiving notice of this change one week before the change is to take effect.

(b) The Seller may assign the Contract or any part of it to any person, firm or Seller. The Purchaser shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

(c) Each right or remedy of the Seller under the Contract is without prejudice to any other right or remedy of the Seller whether under the Contract or not.

(d) If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

(e) Failure or delay by the Seller in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

(f) Any waiver by the Seller of any breach of, or any default under, any provision of the Contract by the Purchaser shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

(g) The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

19. NOTICES

(a) All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post, in case of communications to the Seller, to its registered office (or such changed address as shall be notified to the Purchaser by the Seller) or, in the case of the communications to the Purchaser, to any address notified to the Seller by the Purchaser pursuant this Contract.

(b) Communications shall be deemed to have been received if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting) or, if delivered by hand, on the day of delivery.

20. GOVERNING LAW

These Conditions and the Contract of which they form part shall be governed and construed in accordance with the Laws of England and the Purchaser and the Seller agree to submit to the Courts of England.