

TG Lynes Limited Terms and Conditions

1. Definitions

- 1.1 When the following words with capital letters are used in these Conditions, the following definitions will apply:
- Conditions:** the terms and conditions set out below as amended from time to time in accordance with clause 11.2;
 - Contract:** the contract between the Supplier and the Purchaser for the supply of Services created by the Order and incorporating these Conditions;
 - Goods:** the goods (or any part of them) that the Supplier supplies to the Purchaser pursuant to the Contract and as set out in the Order;
 - Order:** the order for the supply of Services made by the Purchaser to the Supplier or by way of the Purchaser's acceptance of the Supplier's quote for Services to the Purchaser;
 - Services:** the supply of Goods by way of delivery by the Supplier to the Purchaser or by way of collection from the Supplier by the Purchaser.

2. The Contract with the Purchaser

- 2.1 These are the Conditions on which the Supplier provides Services to the Purchaser.
- 2.2 Any quote for the Services is given by the Supplier subject to these Conditions. Each quote for Services provided by the Supplier to the Purchaser shall last a period of 3 months from the time of issue unless withdrawn by the Supplier. Thereafter any price quoted for Services may be subject to variation without notice.
- 2.3 A Contract shall come into existence when the Supplier receives an Order from a Purchaser for Services. Each Order is subject to these Conditions. The Purchaser agrees that these Conditions apply to the Contract to the exclusion of any other terms that the Purchaser may seek to impose or incorporate at any time, under any purchase order, confirmation of order, specification or other document or such terms which are implied by trade, custom, practice or course of dealing.
- 2.4 The Purchaser is responsible for ensuring that the terms of the Order are complete and accurate before the submission of any Order. The acceptance of any amendments to an Order or the cancellation of any Order, once an Order has been accepted by the Supplier, is at the absolute discretion of the Supplier.
- 2.5 All accepted Orders are subject to availability of the Goods. If the Supplier is unable to supply the Purchaser with the Goods, the Supplier will give notice of this to the Purchaser within 24 hours of the Order being received by the Supplier. The unavailable Good(s) will be placed on back order by the Supplier and the Supplier shall notify the Purchaser when the Good(s) become available for delivery or become ready for collection by the Purchaser.

3. Delivery and the Collection of Goods

- 3.1 The Supplier shall ensure that:
- if the Purchaser's Order requires delivery of the Goods, the Goods are accompanied by a **Delivery note** (incorporating these Conditions), which shows the date of the Order, all relevant Purchaser and Supplier reference numbers, the type and quantity of the Goods and the date and place of delivery; and
 - if the Purchaser's Order is for collection of the Goods by the Purchaser, the Purchaser shall collect the Goods from the Distribution Centre notified to it by the Supplier on notification by the Supplier that the Goods are ready for collection. The Goods shall be accompanied by a **Collection note** (incorporating these Conditions) which shows the date of the Order, all relevant Purchaser and Supplier reference numbers, the type and quantity of the Goods and the date and place of collection.
- 3.2 All Delivery notes and Collection notes must be signed by the Purchaser.
- 3.3 Any dates quoted for delivery and/or collection are approximate only and the time for delivery shall not be of the essence unless previously agreed between the Supplier and Purchaser in writing.

4. Prices

The prices payable by the Purchaser shall be those quoted by the Supplier and set out in the Order exclusive of VAT. Where the price has been varied after the date of the Order, this shall be confirmed in the Delivery or Collection note which shall be binding on the Purchaser.

5. Payment Terms

- 5.1 The Supplier shall issue an Invoice being an invoice raised by the Supplier to an **Account Holder** (being any Purchaser with an existing account with the Supplier) as and when an Account Holder makes an Order for Goods to be delivered or collected in accordance with the Order.
- 5.2 Account Holders shall pay the Invoice in full without any deduction, discount or retention in cleared funds in accordance with its terms or as otherwise confirmed in the **Account Holder Statement** (being a statement from the Supplier to the Account Holder itemising any Orders made by the Account Holder in the preceding months which remain unpaid at month end).
- 5.3 Interest will be charged on any Invoice which remains unpaid by the due date. Failure to pay the amount due by the due date will render the entire debt of the purchaser to become payable immediately. Interest will be charged on the unpaid amount in accordance with The Late Payment of Commercial Debts (Interest) Act 1998 (as amended) or at the rate of 4% above the base rate from time to time of the Supplier's bank whichever is higher.
- 5.4 Orders made by non-Account Holders must be paid in advance by cash, credit or debit card at the time of submitting
- 5.5 the Order. The Supplier accepts payment from all major cards except American Express and will issue a receipted invoice with the acceptance of the Order.
- 5.6 The Purchaser shall be liable for all costs reasonably incurred by the Supplier in the collection of any overdue invoices or other amounts pursuant to the Contract including collection agency costs and legal fees plus VAT.

6. Examination of Goods

- 6.1 All Goods must be examined carefully by the Purchaser immediately upon delivery or at the point of collection of the Goods, before the Collection or Delivery note is signed by the Purchaser. Details of any damage, defects or shortages to Goods must be notified in accordance with clause 6.3.
- 6.2 The quantity of any consignment of Goods as recorded by the Supplier upon despatch from the Supplier's Distribution Centre shall be conclusive evidence of the quantity received by the Purchaser on delivery or collection unless the Purchaser can provide conclusive evidence to the contrary.
- 6.3 The Supplier shall not be liable in respect of any shortage, damage or other defects to the Goods which should have been reasonably apparent upon such examination, unless details thereof are notified to the Supplier, in writing, within 5 days of delivery or collection, and, in respect of any shortage, damage or other defects which are not reasonably apparent upon examination, the Supplier must be given notice thereof in writing upon the defect becoming apparent up to 14 days after delivery or collection.
- 6.4 The Purchaser shall be deemed to have accepted the Goods irrevocably if the Supplier is not notified otherwise in writing within 14 days of delivery or collection.

7. Title and Risk

- 7.1 The risk or loss or damage of the Goods shall pass to the Purchaser immediately upon delivery or upon collection.
- 7.2 The Supplier shall be under no liability for any loss or damage suffered in carriage to Goods collected by the Purchaser. The Supplier's liability for any loss or damage to the Goods in carriage on delivery shall be limited to the value of the Goods under the Order and to such amounts recovered (if any) under the Supplier's policies of insurance for such Order.
- 7.3 Title in the Goods shall not pass to the Purchaser until the Supplier receives payment in full in cleared funds for the Services specified under the Order.
- 7.4 The full legal and beneficial interest to the Goods shall remain vested in the Supplier until payment of the Invoice in full and until title to the Goods has passed to the Purchaser, the Purchaser shall:
- store the Goods separately from all other goods held by the Purchaser so that they remain readily identifiable as the Goods supplied by the Supplier;
 - not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - not annex any of the Goods to its property;
 - allow the Supplier access to any of its premises where the Goods are held, at anytime on reasonable notice to inspect the Goods.
- 7.5 The Purchaser shall be at liberty to sell the Goods, in the ordinary course of its business on the basis that the proceeds of any sale of the Goods are to be held on trust for the Supplier and not mixed with any other money in payment of sums owing to the Purchaser.
- 7.6 The Supplier may revoke the Purchaser's right to sell the Goods in accordance with clause 7.5 immediately by written notice to the Purchaser;
- if the Purchaser defaults in the payment of the Invoice or if the Supplier at its absolute discretion has any doubts as to the solvency of the Purchaser; and
 - if where the Purchaser is a limited company or limited liability partnership and there has been the presentation of a winding up petition against the Purchaser, the notification of its intention to enter into a voluntary arrangement or compromise for the payment of debts with its creditors or the filing of a notice of intention of appointment of administrators or a notice of appointment of administrators in respect of the Purchaser or any voluntary steps are taken by the Purchaser for the appointment to the solvency of the Purchaser; and of liquidators (other than in connection with a solvent reorganisation) in respect of the Purchaser or, where the Purchaser is an individual or partnership the presentation of a petition for the bankruptcy of the Purchaser or the notification of an intention to enter into an individual voluntary arrangement
- 7.7 Upon determination of the Purchaser's right to sell the Goods, the Purchaser shall place the Goods at the disposal of the Supplier who shall be entitled to enter upon any premises of the Purchaser for the purpose of removing such Goods from the premises.

8. Supplier's Liability

- 8.1 The Supplier is not the manufacturer of the Goods and is not liable to the Purchaser in any respect for any defect, loss, claim or damage relating to the manufacture of the Goods.
- 8.2 The extent of the Supplier's liability (if any) to the Purchaser for any breach or default of the Supplier's obligations under the Contract howsoever arising shall in no case exceed the amount shown on the Invoice (less VAT).
- 8.3 The Supplier shall in no circumstances be liable for any loss of profit or any other consequential loss or damage whatsoever suffered by the Purchaser as a result of such breach or default of its obligations under the Contract, howsoever arising made by the Supplier, its servants or its agents.

- 8.4 In the event of any shortages, non-delivery, or damage to or defect in the Goods for which the Supplier may be liable, the Supplier shall have the right to elect, subject to notification to the Supplier by the Purchaser in accordance with clause 6.3, at its absolute discretion, either to replace the shortages, defective or damaged Goods or to refund any payments made for the shortages, defective or damaged Goods in full and final settlement of the Purchaser's claim, or any combination thereof.
- 8.5 The Supplier reserves the right to inspect all returned Goods prior to agreeing any part-refund, full refund or product exchange.

9. Exclusion of Liability

- 9.1 All warranties, conditions and other terms implied by statute or common law, including warranties and covenants as to title to the Goods, freedom from encumbrances, quiet possession, further assurance (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.
- 9.2 Nothing in these conditions excludes or limits the liability of the Supplier:
- for death or personal injury caused by the Supplier's negligence; or
 - under section 2(3), Consumer Protection Act 1987; or
 - for any matter which it would be illegal for the Supplier to exclude or attempt to exclude its liability; or
 - for fraud or fraudulent misrepresentation.

10. Force Majeure Event

The Supplier shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable. In any such instance the Supplier shall be released from any obligations under the Contract.

11. General

- 11.1 Each right or remedy of the Supplier under the Contract is without prejudice to any other right or remedy of the Supplier whether arising under the Contract or otherwise.
- 11.2 Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Supplier.
- 11.3 Where there is a dispute between the Conditions and any terms and conditions used by the Purchaser, these Conditions shall prevail.
- 11.4 Any notice to be given pursuant to these Conditions may be given by prepaid post, facsimile, or by email to the parties at the respective addresses as shown on the Collection note or Delivery note or to such other addresses as may have been notified by a party to another party and acknowledged by the other party as having been received for the purposes of giving notice under the Conditions.
- 11.5 Any such notice shall be deemed to have been received:
- if delivered personally, at the time of delivery; or
 - in the case of pre-paid recorded delivery or registered post, two working days from the date of posting; or
 - in the case of fax or email, at the time of transmission if before 4:30 p.m. if after the next working day.
- 11.6 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 that provision shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable from the Contract and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 11.7 Failure or delay by the Supplier 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.
- 11.8 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 11.9 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 save for any successor in title of the Supplier.
- 11.10 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.
- 11.11 The Contract constitutes the entire agreement between the parties. The Purchaser acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.