



TERMS AND CONDITIONS

DEFINITIONS

1 In these terms and conditions, the following words shall have the following meanings:

- (a) "the Company" means Aliva UK Limited (Company Registration Number 04470069) whose business address is The Smithy, Fidlers Lane, East Ilsley, Berkshire, RG20 7LG
- (b) "the Customer" means the company, person or other entity to which the Company sells goods or supplies services.
- (c) "Design Services" means design services described in a contract between the Parties to be carried out by the Company in respect of goods to be supplied by the Company limited to spatial layouts of the goods and wind loading calculations excluding all other design services such as fire strategy and insulation, which shall be the responsibility of others.
- (d) "the Parties" means the Company and the Customer.

GENERAL

- 2(a) These terms and conditions shall apply to all contracts for the sale of goods or supply of services by the Company to the Customer to the exclusion of all other terms and conditions (subject to paragraph 2(e) below) including, but not limited to, any terms or conditions that the Customer may seek to apply under any purchase order, order confirmation, correspondence or other document or implied by trade, custom, practice, or course of dealing.
- (b) All orders for goods or services shall be deemed to be an offer by the Customer to the Company to purchase goods or for the supply of services pursuant to these terms and conditions.
- (c) Acceptance of delivery of goods or receipt of services shall be deemed conclusive evidence of the Customer's acceptance of these terms and conditions.
- (d) The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Customer which is not set out in the written quotation (in whatever form provided by the Company).
- (e) These terms and conditions cannot be varied unless such variation is in writing and signed by both the Company and the Customer.

PRICES

- 3(a) Subject to paragraph 3(b) below, the price shall be price stated in the Company's written quotation or such other price agreed in writing by the parties.
- (b) Unless otherwise specified prices quoted are subject to the Company's right to increase any price to take account of delivery charges, insurance costs, special handling charges (if any) and/or packing charges (if any), agreed changes in the specifications or changes in any taxes, duties, tariffs or levies charged on or in relation to the goods, materials or services used on or in relation to a contract between the Parties and/or any extra costs or expense incurred by the Company as a result of site conditions, delays, interruptions, lack of information, changes in exchange rates and/or without limitation any other factors beyond the Company's control. If as a result of any changes to the metal price index there is any variation in the costs to us of performing any contract, then the price shall be adjusted accordingly.
- (c) Prices stated do not include VAT and any other tax, duty, tariff or levy, which shall be payable by the Customer and will be added to the invoice when applicable.

TIME

- 4(a) Any period or times stated for delivery or for compliance with any other contractual obligations of the Company are estimates only and in any event the Company accepts no responsibility for loss or damage resulting from delay or failure to notify the Customer of any such delay. Time of delivery shall not be of the essence and delayed delivery shall not entitle the Customer to cancel any order.
- (b) Estimated times run from the date of the Company's acceptance of the Customer's written order as evidenced by the Company's order confirmation countersigned by the Customer together with any payment due with such order and receipt of all samples, information, licences and consents necessary to proceed with the order.
- (c) Changes in specification or additional work or revised instructions relating to any aspect of a contract between the Parties will entitle the Company to vary any price and/or time for completion of the relevant contract.

CREDIT LIMIT

- 5(a) The Company will set a credit limit for all orders placed by the Customer. If the credit limit is exceeded by the Customer, the Company shall be entitled to suspend the manufacture, dispatch and delivery of goods or the supply of services until after such time as the Customer has made payment to reduce the amount outstanding to a sum less than the credit limit. Upon such reduction, the Company will use reasonable endeavours to recommence the manufacture, dispatch and delivery of goods or the supply of services as soon as reasonably practicable. In the event of such suspension, the estimated time for delivery of goods or supply of services shall be extended by the same period as the period of delay caused by the suspension and the Customer shall indemnify the Company for all direct indirect or consequential costs, damages, or other losses of whatsoever nature incurred by the Company or for which the Company is liable as a result of the suspension.
- (b) The Company reserves the right to grant, refuse, restrict, cancel or alter credit terms at its sole discretion at any time.

DISPATCH AND DELIVERY

- 6(a) The Company shall deliver the goods to the location set out in the Company's written quotation or to such other location as the Parties may agree subject to payment by the Customer of any additional transport.
- (b) If dispatch is delayed through the Customer's unwillingness or inability to arrange delivery or to make any payment due prior to dispatch the Company may effect delivery of the goods by giving written notice that it is ready for dispatch.
- (c) If the goods are stored by the Company either at the Customer's request or if for any reason forwarding instructions are not received by the Company within 7 days of advice that the goods are ready for dispatch the Customer shall reimburse the Company for all costs and expenses or storage (including any necessary transit costs and insurance)
- (d) The Customer shall be solely responsible for unloading the goods at the point of delivery. Upon receipt of goods any delivery documents must be signed for using the words "with reserve" and any discrepancies advised within 48 hours along with the return of the Company's signed delivery note emailed to the Company's office at orders@gruppovivas.co.uk.

PROPERTY RISK AND INSURANCE

- 7(a) Notwithstanding that possession of the goods shall have passed to the Customer, legal ownership in the goods shall remain with the Company until the Company has received the full amount of the price and other sums due from the Customer. So long as legal ownership in the goods remains with the Company and the Customer is in default of any obligation under any contract between the Parties, the Company shall have the right with or without prior notice to the Customer to re-take possession of the goods and for that purpose to go upon any premises occupied by the Customer and on such re-taking of possession the relevant contract shall be terminated but without prejudice to the rights of the Company to enforce any other or additional remedy existing at the time of termination in respect of such default.
- (b) The Customer shall store, mark and designate all goods in respect of which title has not passed to the Customer so as clearly to show that they are the property of the Company.
- (c) The risk in the goods shall pass to the Customer on delivery. Thereafter the Customer shall be responsible for the satisfactory care and protection of the goods and shall take out at its own expense adequate and comprehensive all risks cover on the goods (with a note of the Company's interest endorsed thereon) until the Company has received payment of the price in full and the Customer shall provide to the Company at the Company's request evidence that such cover has been placed.
- (d) The Customer shall be entitled to resell the goods with the consent of the Company, such consent not to be unreasonably withheld, and shall hold the proceeds of sale on trust for the Company, keeping such proceeds separate from other monies or property of the Customer, and shall account to the Company for such proceeds on request.

PAYMENT

- 8(a) Unless otherwise agreed payment shall be made in full without any deduction or withholding whatsoever within 30 days of the date of the invoice. The Company reserves the right to claim statutory interest at 8% above the Bank of England reference rate in force on the date the debt becomes overdue and at any subsequent rate where the reference rate changes and the debt remains unpaid in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002.
- (b) The Customer shall pay all sums that it owes to the Company without any set-off, counterclaim, deduction or withholding of any kind, save as may be entitled by law.

WARRANTY

- 9(a) Any defect in or failure of the goods shall be notified in writing forthwith to the Company but in any event no later than five working days from delivery (or for latent defects within three working days of the defect becoming apparent). The Company will, on the basis indicated below, make good by repair (at the Company's option) or exchange the goods or parts thereof which are shown to the Company's reasonable satisfaction to have proved defective in materials or workmanship under proper use and maintenance within the manufacturers specified warranty period. The Company shall decide whether such making good shall be effected at the address of the Customer or at the Company's offices. Defective goods shall only be accepted for replacement or repair with prior authorisation from the Company.
- (b) Disputes in quality or dimensions of any one delivery shall not be a ground for cancellation of any outstanding part of a contract between Parties.
- (c) All conditions and warranties whatsoever (whether express or implied and whether arising at Common Law or by statute) are hereby excluded to the extent permitted by law provided always that nothing herein shall be deemed to exclude the warranty as to title implied by S12 of the Sale of Goods Act 1979.
- (d) The warranty given by the Company above shall not apply if:-
- i The repair or replacement of a part or parts is required because of an accident neglect or misuse of the goods by the Customer or interference with the goods by persons other than the Company's employees or
 - ii Materials, installation or storage methods which have not been authorised or approved by the Company are used with the goods or
 - iii The Customer makes any use of the goods after giving notice of a defect or
 - iv The defect arises as a result of the Company following any drawing or design supplied by the Customer or
 - v The defect arises as a result of fair wear and tear, wilful damage or abnormal site or working conditions or
 - vi The goods differ from the specification as a result of changes made to ensure that they comply with applicable statutory or regulatory changes or to improve their quality.

SAMPLES AND DESCRIPTIONS

- 10 Any samples, drawings, descriptive matter or advertising issued by the Company and any descriptions of the goods or illustrations or descriptions of the services contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the services or goods described in them. They shall not form part of any contract between the Parties or have any contractual force.

DESIGN SERVICES

- 11 If a contract between the Parties provides for Design Services, the Company shall carry out the Design Services with reasonable skill and care.

INTELLECTUAL PROPERTY RIGHTS

- 12(a) All intellectual property rights in and arising out of or in connection with the goods or Design services shall be owned by the Company. Subject to clause 12(b), the Company licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the services. If the contract between the Parties is terminated, this licence will automatically terminate.
- (b) The Customer acknowledges that, in respect of any third party intellectual property rights, the Customer's use of any such intellectual property rights is conditional on the Company obtaining a written licence from the relevant licensor on such terms as will entitle the Company to license such rights to the Customer.

LIABILITY

- 13(a) The Company's total liability to the Customer shall in no circumstances exceed the invoice value of the goods or services, whichever is applicable.
- (b) The Company shall have no liability for any indirect or consequential losses or expenses suffered by the Customer, howsoever caused, including without limitation loss of anticipated profits or opportunities, goodwill, reputation, business receipts or contracts, or losses or expenses resulting from any third party claims.
- (c) The Company shall be under no liability for any damage or loss to third parties caused directly or indirectly by the goods supplied by the Company and the Customer shall indemnify the Company against any such loss or damage and any claims, demands, actions or proceedings of any third parties which relate to the same.
- (d) Nothing in these terms and conditions shall limit the Company's liability for death or personal injury caused by negligence, or any other liability which it is not possible to limit at law.

PERFORMANCE DATA

- 14 Any performance figures quoted or referred to in any specification or other document used in concluding any contract between the Parties are estimates only, based on assumed conditions with experienced adequate and efficient operators and appropriate services and proper use of satisfactory materials.

ASSIGNMENT

- 15 The Customer may not assign its rights or obligations under any contract without the Company's prior written consent.

FORCE MAJEURE AND FRUSTRATION

- 16 The Company shall:-
- i in any event not be liable for loss or damage and
 - ii be entitled to cancel or rescind the relevant contract,
- if the performance of its obligations is in any way adversely affected by any cause whatsoever beyond the Company's control including but not limited to the delays or defaults of suppliers or the default of any sub-contractor, war, strike, lock-out, trade disputes, flood, accident to plant or machinery, shortage of materials or labour, epidemics or pandemics.

CANCELLATION, SUSPENSION AND TERMINATION

- 17(a) Cancellation cannot be effected by the Customer without the Company's consent and on terms which indemnify the Company against all direct indirect or consequential costs, damages, or other losses of whatsoever nature incurred by the Company or for which the Company is liable.
- (b) If the Customer commits any breach of contract or becomes insolvent or goes into liquidation or has an administrator or receiver appointed or proposes a voluntary arrangement, the Company may suspend all deliveries and services and by notice in writing to the Customer may forthwith determine the contract without prejudice to the provisions of paragraph 7(a) above and to any existing claim.
- (c) If a contract involves more than one delivery and default is made in payment on the due date for a delivery, the Company shall have the right to suspend all further deliveries under the contract or any other contract between the Parties until payment is made or to terminate the contract or contracts.

PRIVACY POLICY

- 18 The Company takes privacy very seriously and is committed to protecting personal data. The Company's privacy policy is available on the Company's website: www.alivauk.com.

THIRD PARTY RIGHTS

- 19 No one other than a party to any contract between the Parties shall have any right to enforce any of its provisions.

LEGAL CONSTRUCTION

- 20 These terms and conditions and any contract between the Company and the Customer shall be governed by and construed in accordance with the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the courts of England and Wales.