

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 1210 Parkview, Arlington Business Park, Theale, Berkshire, RG7 4TY;
- (b) "the Customer" means the company, person or other entity to which the Company sells goods or supplies services.

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(d) below) including, but not limited to, any terms or conditions that the Customer make 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 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 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 or levies charged on or in relation to the goods, materials or services used on or in relation to this contract 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 or duty payable by the Customer which 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 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 the contract will entitle the Company to vary any estimates of price and/or time for completion of the 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.

DESPATCH AND DELIVERY

6(a) Unless otherwise agreed in writing delivery of the goods will be ex-works.

- (b) Where dispatch is delayed through the Customer's unwillingness or inability to arrange carriage 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 Company'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) 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 faxed to the Company's offices on 01189 35901.

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 the Agreement 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 Agreement 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 risk in the goods shall pass to the Customer on dispatch. 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.
- (c) 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 Unless otherwise agreed payment shall be made 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.

WARRANTY

9a) 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 manufacturer's 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 the outstanding part of the Agreement.
- (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 or installation methods which have not been authorised or approved by the Company are used with the goods.

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.

LIABILITY

- 11(a) The Company's total liability to the Customer shall in no circumstances exceed the invoice value of the goods.
- (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

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



FORCE MAJEURE AND FRUSTRATION

- 13 The Company shall:-
- i. in any event not be liable for loss or damage; and
 - ii. be entitled to cancel or rescind the 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.

CANCELLATION

- 14 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.

PRIVACY POLICY

- 15 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.

LEGAL CONSTRUCTION

- 16 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 Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.