

Conditions of Purchase

1. Definitions and Interpretation

In these Conditions, unless the contrary intention is shown:

‘**Conditions**’ means these terms and conditions;

‘**Contract**’ means a Contract made pursuant to the Order consisting of the Conditions, any specific terms required by DBK in its Order and any other written terms agreed and signed off by the Supplier and DBK;

‘**Express Term**’ means a term or condition specified by DBK on its Order or any other term or condition expressly stipulated by DBK;

‘**DBK**’ means DBK Technitherm Limited, a company registered in England and Wales under company number 01861693, whose registered office is at Unit 11, Llantrisant Business Park, Llantrisant, Mid Glamorgan CF72 8LF Wales United Kingdom;

‘**Goods**’ means the goods and/or services purchased by DBK pursuant to a Contract;

‘**Order**’ means an order for Goods placed by DBK on its Order Form;

‘**Order Form**’ means a DBK official order form; and

‘**Supplier**’ means the party liable to supply Goods to DBK pursuant to a Contract.

2. Contract

(a) Every Order is placed with the Supplier on the basis that each Contract resulting from the Order shall be governed by these Conditions, together with any other Express Terms.

(b) Where there is conflict with any Express Term and these Conditions, such Express Term shall prevail.

(c) The terms and conditions of a Contract shall be limited to the Express Terms, the Conditions and any variations thereto expressed in writing and signed by DBK and the Supplier.

(d) No variation of the terms and conditions of a Contract shall be valid and binding unless accepted by both DBK and the Supplier in writing.

3. Official Order

DBK does not accept any responsibility for Goods supplied except those supplied in accordance with an Order placed by a duly authorised employee of DBK on an Order Form and will not be liable to receive any Goods or in respect of payment for any Goods unless such Order Form is produced on request.

4. Official Order Number and Date

The number and date of the Order must be quoted by the Supplier on all delivery advices, advice notes, invoices and correspondence and all packaging must be clearly marked or labeled with the number.

5. Discounts, Rebates, Variations and Settlements

(a) After the Contract has been made DBK will not accept to its detriment any variation, discount, rebate or settlement terms or any other financial terms and conditions which adversely affect the terms of the Contract.

(b) DBK’s entitlement to discount or rebate and the settlement and any other financial terms and conditions shall be determined by reference to the later of (a) the date of delivery of the Goods or (2) the date of the Supplier’s invoice.

6. Inspection and Testing

(a) DBK may inspect and test any Goods ordered from the Supplier during manufacture and storage by the Supplier. If DBK exercises this right the Supplier shall provide all such facilities as DBK may reasonably request. No Goods shall be deemed accepted by DBK notwithstanding that it has taken delivery from a carrier and commenced inspecting or testing the Goods.

(b) Before dispatching the Goods the Supplier will carefully test and inspect the Goods to such requirements as DBK may specify. The Supplier shall give DBK advance notice of such tests and inspections and will allow DBK to be represented at them. If requested by DBK, the Supplier will also supply a certified copy of the Supplier's test sheets.

(c) Goods dispatched pursuant to an Order will be accompanied by a certificate of conformity.

7. Hazardous Goods

Prior to transportation, all information known to be reasonably available to the Supplier regarding any potential hazards in the transport, handling or use of the Goods supplied pursuant to the Order shall be promptly communicated in writing to DBK.

8. Delivery

(a) The Supplier will deliver the Goods free of charge to the place or places specified by DBK or, if no place is specified, to DBK's address set out in the Order.

(b) The Supplier must send an unpriced delivery advice note with the Goods.

9. Packaging

Quoted prices include containers and packaging. Unless agreed to the contrary by DBK in writing, containers and packaging will not be returnable.

10. Time of Delivery

(a) In the event that the Supplier does not deliver the Goods by the delivery date specified on the Order or if there is no delivery date specified in the Order within a reasonable time, DBK may without prejudice to its other rights cancel the Order or any unexecuted part of the Contract and refuse to accept or pay for the Goods. Time for delivery of the Goods shall be of the essence of the Contract.

(b) The Supplier will indemnify DBK against all losses, costs and expenses (including additional transport costs and the cost of lost production) incurred or sustained by DBK as a result of the Supplier failing to deliver the Goods by the delivery date specified on the Order.

(c) DBK reserves the right to postpone delivery dates to meet its operational requirements by notice in writing to the Supplier.

11. Passing of Property and Risk

Property and risk in Goods supplied in accordance with the Contract shall pass to DBK as and when the Goods are delivered to DBK unless the parties expressly agree otherwise in writing. The Supplier shall ensure that the Goods are safely transported to DBK and are fully insured during transportation to DBK.

12. Rejection

(a) If any Goods are defective in materials or workmanship, damaged or otherwise fail to meet the requirements of the Contract, DBK shall have the right in its own absolute discretion to reject such Goods or to retain and correct them at the expense of the Supplier. Rejected Goods held by DBK shall be at the Supplier's risk.

- (b) If DBK returns the rejected Goods to the Supplier then:
- i. such Goods shall be returned at the Supplier's expense and risk and the Supplier shall pay all DBK's costs of packing, handling and sorting the rejected Goods;
 - ii. the Supplier, at DBK's option, shall within a reasonable time either supply replacement Goods in accordance in all respects with the Order in place of the rejected Goods or issue a credit note to DBK for the full price thereof; and
 - iii. no payment shall be due in respect of any rejected Goods notwithstanding that the Supplier may have invoiced DBK for them.

13. Warranty

The Supplier warrants that:

- (a) the Goods covered by the Contract will conform to the specification, drawings, samples or other description furnished, specified or approved by DBK and will be fit for the purpose intended, of satisfactory quality, of good material, safe for use and free of defect; and
- (b) the design, construction and quality of the Goods covered by the Contract will comply in all respects with all relevant requirements of any applicable statute, statutory instrument, regulation, order or other instrument having the force of law.

The warranties contained in this Condition are in addition to those implied or available in law and exist notwithstanding the acceptance by DBK of all or a part of the Goods with respect to which such warranties are applicable.

14. Third Party Rights

Save to the extent that the Goods covered by the Contract are designed by DBK, the Supplier warrants that such Goods and their sale or use by DBK will not infringe the intellectual property rights of third parties including, but not limited to, any patents, registered designs, design rights, trademarks or trade names and agrees to indemnify DBK and anyone selling or using any of DBK's products incorporating the Goods against all actions, claims, losses, costs and expenses resulting from any infringement or alleged infringement and agrees, at DBK's request and at the Supplier's expense, to defend or assist in the defense of any action which may be brought against DBK or anyone selling or using any of DBK's products incorporating the Goods by reason of any such infringement or alleged infringement.

15. Drawings, Specifications, etc.

(a) All drawings supplied by DBK and all rights therein shall remain the property of DBK and the Supplier may only use such drawings for the purpose of fulfilling a Contract with DBK. The Supplier shall not disclose any such drawings or any information contained therein to any third party unless expressly required or permitted to do so by DBK in writing. The Supplier shall, at DBK's option, return all drawings and information to DBK or permanently destroy all such drawings and information if notified in writing by DBK to do so.

(b) For the purpose of this paragraph 'drawings' shall be deemed to include drawings, plans, photographs, models, patterns, samples, specifications and technical information of every description.

16. Jigs, Moulds and Tooling

All jigs, moulds and tooling supplied by or paid for by DBK and all rights therein shall be and shall remain the property of DBK and the Supplier may only use such jigs, moulds or tooling for the purpose of fulfilling Contracts with DBK. All such jigs, moulds and tooling shall be at the risk of the Supplier until returned to DBK and will be kept in good condition by the Supplier at its own expense, properly insured for its full replacement value. DBK shall be entitled to the return of the jigs, moulds and tooling free from all charges and upon demand and shall be entitled to enter the Supplier's premises or any other location at which the Supplier stores the jigs, moulds or tooling to regain possession of them.

17. Design Rights

Insofar as any work to be performed by the Supplier under an Order may consist of design, all rights in such design shall belong to DBK and the same shall not be used by the Supplier except for the purpose of the Contract, neither shall the Supplier copy nor disclose the same to any third party.

18. Statutory Liabilities

It shall be the Supplier's responsibility to ensure that any sanction or permission required by law which is necessary to enable the Supplier to fulfill the Contract is obtained and the Supplier will indemnify DBK against any claims, costs, losses, damages or expenses occasioned by the Supplier's failure to obtain such sanction or permission.

19. Supplier's Default

(a) The Supplier will indemnify DBK against all liabilities, costs, claims, damages and expenses which DBK may incur, sustain or pay in consequence of the supply by the Supplier of defective Goods or any other breach by the Supplier of the terms of the Contract.

(b) Where the Order relates to work carried out for DBK on its premises or elsewhere at its direction, the Supplier will be liable for and will indemnify DBK against all costs, claims, demands, losses and expenses arising in connection therewith as a result of injury to or the death of any person or of loss or damage to any property except to the extent that any such personal injury or death arises solely as a result of the negligence of DBK or its employees, officers or agents.

20. Non-Assignment and Sub-contracting

The Supplier will not assign its rights or liabilities under a Contract and will not sub-contract any of its duties and obligations under a Contract without the prior written consent of DBK, in its sole discretion.

21. Advertising

The Supplier shall not advertise the fact that it has received the Order or that it has a Contract with DBK or use the name of DBK or refer to the Goods specified in the Order in any publicity or advertising material without the prior written consent of DBK, in its sole discretion.

22. Insolvency of the Supplier

If the Supplier is made bankrupt or makes or enters into any deed or arrangement or composition with his creditors or, being a company, enters into liquidation (whether compulsory or voluntary) except liquidation for the purpose of a solvent reconstruction or amalgamation, has an administrator or an administrative receiver appointed over its business or assets or suffers or allows any execution whether legal or equitable to be levied or obtained, DBK may elect to treat the Contract as being terminated with immediate effect, but without prejudice to DBK's liability to pay a due proportion of the Contract price for Goods supplied to the date of termination.

23. Waiver

The waiver by DBK of any breach of any term of the Contract shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any other breach.

24. Proper Law

Contracts made with DBK shall be governed by and construed according to the laws of England and Wales and the Supplier agrees to submit to the jurisdiction of English and Welsh Courts.

25. Entire Agreement

The Conditions, together with the Express Terms and any variations agreed in writing by the parties from time to time, shall constitute the entire agreement and understanding between the parties with respect to all matters which are referred to any shall supersede any previous agreement(s) between the parties in relation to the matters referred to in each Contract. Nothing in this clause shall limit or exclude any liability for fraud.