

Terms and Conditions of Sale

1.1 Contracts with **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 ("DBK") shall be for the supply of DBK's products from time to time ("Products").

1.2 A contract between DBK and the customer ("Customer") shall only exist when DBK transmits to the Customer in writing its acceptance ("Acceptance") of the Customer's order ("Order").

1.3 Each Contract between DBK and the Customer shall consist of the Order, the Acceptance, these conditions of sale ("Conditions") and such other express terms as DBK and the Customer shall agree in writing (together the "Contract").

1.4 In the event that:

a) the terms of the Order are in conflict with any of the Conditions, the Conditions shall prevail; and

b) the express terms of a contract are in conflict with any of the Conditions the express terms shall prevail.

1.5 The Customer acknowledges that it has not been induced to enter into the Contract by any representation made by, or on behalf of, DBK other than those contained in the Contract and DBK's liability for any pre-contractual statements not incorporated in the Contract (except in the event of fraudulent misrepresentation) is expressly excluded.

1.6 These Conditions shall apply to the Contract to the exclusion of any terms and conditions that the Customer purports should apply to the Contract.

2. Quotation and Prices

2.1 Customers will be invoiced by DBK at DBK's prices ruling at the date of despatch of the Products ("Prices" and "Price" shall mean all Prices payable for the Products sold under a Contract).

2.2 Prices quoted in DBK's quotations or price lists:

a) are those then current and shall not be binding on DBK for any Contract; and

b) do not include Value Added Tax or any other tax, levy, duty or surcharge whether imposed before or after making the Contract.

2.3 Packaging and postage or carriage will be an additional charge.

3. Orders

3.1 All Orders by the Customer:

a) must be numbered;

b) must identify the Products by reference to a catalogue number and a description of the Products;

c) must specify the address to which the Products are to be delivered ("Place of Delivery"); and

d) must specify the address to which the Acceptance and the DBK invoice is to be sent.

3.2 Orders made by telephone must be confirmed in writing by the Customer within 48 hours on order forms marked "Confirmation of telephone order".

3.3 By written agreement between DBK and the Customer Orders for the Products may be established for delivery by instalments.

4. Variations

No variation of any Contract shall be valid or binding unless the terms thereof have

been agreed in writing by both DBK and the Customer.

5. Catalogues, etc.

Any description of the Products appearing in DBK's catalogues, brochures and other publications is believed to be correct and up to date but is not warranted by DBK. In so far as any publication has been compiled from information supplied to DBK by any manufacturer or supplier of any such Products DBK accepts no responsibility for the accuracy of any such description.

6. Specification and Material

6.1 All Products will be supplied to DBK's specifications current at the date of commencement of manufacture of the Products.

6.2 Products will be made from DBK's standard materials but, if, for any reason, such materials are unavailable, DBK reserves the right to substitute the most suitable alternative that can be obtained at the time of manufacture.

6.3 DBK will repair or at its option replace any Products which after proper use prove to be defective within a period of 12 months after the date of delivery. This condition shall not apply to Products which have been processed or interfered with other than by DBK or which have not been stored, handled or used in accordance with DBK's instructions and recommendations.

7. Limitation of Liability

7.1 Other than as stated in Condition 6, DBK makes no warranty relating to the workmanship, design or materials of the Products and all other conditions, warranties, stipulations or other statements, whether express or implied by common law, statute or

otherwise relating, indirectly or directly, to such matters are hereby excluded. In particular, but without prejudice to the generality of the foregoing, DBK makes no warranty (other than is set out in Condition 6) regarding the fitness for purpose, performance, use or quality of the Products.

7.2 DBK shall not be under any liability for indirect or Consequential Loss suffered by the Customer whether in contract, tort (including negligence or breach of statutory duty), statute or otherwise and DBK's Prices are set accordingly. "Consequential Loss" means any indirect or consequential loss or damage of any kind including, but not limited to, any pure economic loss, loss of profit, loss of business and like loss or for increased costs or expenses, or loss of profit, business, contracts, revenues or savings.

7.3 DBK's entire liability under each Contract in contract, tort (including negligence or breach of statutory duty), statute or otherwise (other than for death or personal injury caused by the negligence of DBK, its employees, agents or sub-contractors) shall be limited to the Price payable by the Customer for the Products under that Contract.

7.4 Nothing in these Conditions shall limit or exclude any liability for fraud or death or personal injury caused by the negligence of DBK, its employees, agents or sub-contractors.

8. Products to the Customer's specification

Where DBK supplies Products to a Customer in accordance with the Customer's written specification, any addition or alteration shall be subject to an extra charge and the Customer shall indemnify DBK against all damages, penalties, costs and expenses to which it may become liable through the infringement of the rights of third parties.

9. Delivery

All products supplied by DBK shall be delivered to the Customer at the Place of Delivery.

10. Shortage, damage and non-delivery

No claim against DBK for shortage, damage in transit or non-delivery will be entertained unless:

- a) shortage of or damage to the Products is reported in writing to DBK and the carrier within seven (7) days of delivery; or
- b) non-delivery of the Products is reported in writing to DBK and the carrier within seven (7) days of the date of despatch as notified to the Customer in advice notes.

11. Non-acceptance of delivery

If the Customer fails to take or accept delivery of the Products in accordance with Condition 9 hereof then the Price shall nevertheless be paid in accordance with Condition 14 as if delivery had taken place. DBK shall be entitled to charge the Customer for storage, insurance and other expenses incurred or suffered by DBK as a result of such failure but DBK shall not be bound to take any steps for the Customer or care of the Products or be liable for any loss or damage suffered by the Customer arising therefrom.

12. Delay

Any times quoted for delivery are to be treated as estimates only and will not involve DBK in any liability for failure to deliver the Products within such time. Where for any reason delivery of the Products to the Customer is delayed the Customer shall take delivery of the Products sold within three (3) days of being requested by DBK.

13. Force majeure

DBK shall not be liable for failure to comply with the terms of the Contract owing to Act of God, force majeure, riots and civil commotion, war, disease, strike, lock-out, labour disputes, fire or any other cause whatsoever beyond DBK's control.

14. Payment and interest

14.1 Except where a credit account has been opened for the Customer by DBK, payment shall be made in cash as soon as the Products have been delivered or against a proforma invoice.

14.2 Credit account invoices are due for payment on the twenty-first (21st) of the month following that in which the invoice is dated. All invoices are strictly net.

14.3 Payment of credit account invoices by their due date is a condition precedent to the fulfilment of DBK's further obligations under the Contract in respect of which such default has been made or any other Contract then subsisting between DBK and the Customer.

14.4 DBK shall be entitled to charge interest at the rate of five per cent (5%) above the base rate of Lloyds TSB Bank plc from time to time on any overdue payments, such interest to accrue from the due date to the date of payment.

15. Passing of property and risk

15.1 The risk in the Products supplied by DBK shall pass to the Customer on delivery to the Place of Delivery regardless of whether the Customer has failed to take delivery as referred to in Condition 11.

15.2 DBK will remain the sole and absolute owner of the Products until payment of the Price has been made in full. Until receipt by DBK of such payment the Customer will hold the Products for DBK as fiduciary bailee and will store them upon its premises separately from its own Products or those of any other person and in a manner which makes them readily identifiable as the Products of DBK.

15.3 When payment for the Products is overdue or the Customer suffers distress or execution to be levied against his or its effects, makes an arrangement or composition with his or its creditors or, being a corporate body, enters into liquidation or has an administrator or a receiver appointed over the whole or any part of its undertaking or being an individual, has a receiving order in bankruptcy made against him, then:

a) if the Customer remains in possession of the Products, whether or not the Customer has sold them, then DBK shall be entitled to recover the Products from the Customer; or

b) if the Customer has parted with possession of the Products by way of sale, having sold them as fiduciary bailee, then it shall hold in trust so much of the proceeds of sale of the Products as represents the Customer's liability to DBK in respect of them.

15.4 DBK may for the purpose of recovery of its Products enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

16. Instalments

Where the Products are delivered by instalments in accordance with Condition 3.3:

a) each delivery shall be deemed to constitute a separate enforceable Contract; and

b) subject always to Condition 17, no delivery may be changed or cancelled unless the Customer has given DBK one (1) month's written notice prior to the date of despatch.

17. Cancellation

Contracts and orders may not be cancelled by the Customer without the written consent of DBK and Contracts resulting from special orders may not be cancelled in any circumstances. In the event of the Products being returned to DBK as a result of the cancellation of a Contract, DBK reserves the right to make a cancellation charge calculated by DBK based on the costs to DBK which cannot be recovered with a handling and restock charge.

18. Insolvency

DBK shall have the right to terminate the Contract forthwith by notice in writing where the Customer becomes insolvent or bankrupt or makes any arrangement with its creditors or suffers a receiver or an administrator to be appointed or enters into liquidation (other than in connection with a solvent reconstruction or amalgamation) in any of which cases DBK shall have no further obligations under the Contract and the Price for all the Products delivered shall become immediately due and payable.

19. Non Assignment

The Customer shall not assign its rights or liabilities under a Contract without the prior written consent of DBK. DBK may assign its rights and liabilities to any member of its group, including any subsidiary or holding company (as such terms are defined in the Companies Act 2006).

20. Waiver

Failure by DBK to enforce a term of the Contract shall not prevent the subsequent enforcement of that or any other term of the Contract.

21. Proper Law

The Contract made with DBK shall be governed by and construed according to the law of England and Wales and the Customer agrees to submit to the jurisdiction of English and Welsh Courts.

22. Third Party Rights

Nothing contained in the Contract is intended to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999.

23. Entire Agreement

The Contract shall constitute the entire agreement and understanding between DBK and the Customer with respect to all matters which are referred to any shall supersede any previous agreement(s) between them in relation to the matters referred to in the Contract.