

IMPORTANT NOTICE: This document sets out information about us and the legal terms and conditions (**Terms**) on which we sell to you any of the goods we manufacture. Please read these Terms carefully and make sure that you understand them, before ordering any goods from us.

These Terms will apply to any contract between us for the sale of goods to you.

These Terms, together with our quotation and your order, form a legal agreement between us and you (**Contract**).

We amend these Terms from time to time as set out in clause 7. Every time you wish to order goods, please check these Terms to ensure you understand the terms which will apply at that time.

Our liability to you: Your attention is particularly drawn to the provisions of clause 12 (if you are a consumer) or clause 28 (if you are a business customer) which limits what we will be liable to you for if we breach these Terms and in other circumstances.

UPDATE: These Terms were last updated on 30 September 2014.

CONSUMER OR BUSINESS CUSTOMER:

You are a **business customer** if you enter into the Contract with us for purposes relating to your trade, business, craft or profession, whether you are acting personally or on behalf of a business. You enter into this contract as a **consumer** if you are an individual acting for purposes which are wholly or mainly outside your trade, business, craft or profession.

- if you are a **consumer** then clauses 1 to 13 below apply. Clauses 14 to 33 do not apply to you.
- If you are a **business customer** then clauses 1 to 9 and 14 to 33 below apply. Clauses 10 to 13 do not apply to you.

1. DEFINITIONS

1.1 In these Terms, the following words and phrases have the following meanings:

Contract: the contract between us and you for the supply of Goods in accordance with these Terms.

Delivery Location: has the meaning set out in clause 3.3.

Event Beyond Our Control: has the meaning given to it in clause 6.1.

Goods: the goods (or any part of them) set out in the Specification.

Order: your order for the supply of Goods, or your written acceptance of our quotation, as the case may be.

Specification: any specification for the Goods, including any relevant plans or drawings, either set out or referred to in the Order or that is agreed in writing by you and us.

We/us/our: means the company within the MCL Group with which you enter into the Contract. That company will be one of either:

- (a) MCL Composites Limited, a company registered in England and Wales under company number 364912 and with its registered office at New Street, Biddulph Moor, Stoke-on-Trent, Staffordshire ST8 7NL. Its VAT number is 785420906 (MCL Infrastructure is a trading style of MCL Composites Limited); or
- (b) MCL Industrial Enclosures Limited, a company registered in England and Wales under company number 1300156 and with its registered office at New Street, Biddulph Moor, Stoke-on-Trent, Staffordshire ST8 7NL. Its VAT number is 280679037 (MCL Utility is a trading style of MCL Industrial Enclosures Limited)

as set out in the Order Confirmation, and if no company is named in the Order Confirmation, then the company named in the Specification. If neither the Order Confirmation nor the Specification name a company, then the Contract is with MCL Composites Limited.

You/yours: the person or firm who purchases the Goods from us.

2. HOW THE CONTRACT IS FORMED BETWEEN YOU AND US

- 2.1 Your Order constitutes an offer by you to purchase Goods from us in accordance with these Terms. Please take the time to read and check your Order.
- 2.2 Following receipt of your Order, you may receive an e-mail from us acknowledging that we have received your Order. However, please note that this does not mean that your Order has been accepted. Our acceptance of your order will take place as described in clause 2.4.
- 2.3 We may undertake such credit checks as we consider appropriate and you agree that you are giving your consent to us undertaking credit checks by submitting the Order.
- 2.4 The Contract shall be formed and become legally binding upon us and you on the earlier of (i) us issuing a written acceptance of your Order (**Order Confirmation**) or (ii) us delivering the Goods to you.
- 2.5 Although we have made every effort to be as accurate as possible, any images, samples, drawings, or descriptions of the Goods contained in our catalogues, website, advertising or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. The Goods you receive may vary slightly from them.
- 2.6 Although we have made every effort to be as accurate as possible, all sizes, weights, capacities, dimensions and measurements indicated by us have a tolerance which is the larger of 5 cm or 2%.
- 2.7 Any quotation given by us shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

3. DELIVERY

- 3.1 Your order will be fulfilled within a reasonable time of the estimated delivery date set out in the Order Confirmation, unless:
 - (a) there is an Event Beyond Our Control; or
 - (b) you fail to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goodsin which case we will contact you with a revised estimated delivery date.
- 3.2 Once the Goods are ready for dispatch we will inform you of the proposed delivery date. Please arrange to be at the delivery address to take delivery of the Goods.
- 3.3 Delivery will take place at our premises unless we have agreed in writing to deliver them to an address you gave us (**Delivery Location**). Where delivery is to take place at our premises delivery will be completed when we make the Goods available for collection by you or your agent. Where we are to deliver the Goods to a Delivery Location then delivery will take place when we deliver the Goods to the Delivery Location.
- 3.4 The Goods will be your responsibility from the completion of delivery.

4. PRICE OF GOODS AND DELIVERY CHARGES

- 4.1 For consumers using our website www.meterboxes.co.uk (**site**):
 - (a) the prices of the Goods will be as quoted on our site as updated from time to time. We take all reasonable care to ensure that the prices of Goods are correct at the time when the relevant information was entered onto the system. However if we discover an error in the price of Goods you ordered, please see clause 4.3 for what happens in this event.
 - (b) prices for our Goods may change from time to time, but changes will not affect any order which we have confirmed with an Order Confirmation.
 - (c) the price of Goods displayed on the site includes VAT (where applicable) at the applicable current rate chargeable in the UK for the time being. However, if the rate of VAT changes

between the date of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Goods in full before the change in VAT takes effect.

- (d) our delivery charges are included in the price of the Goods.
- (e) through the site we only sell to customers on the UK mainland and the Isle of Wight and orders from outside these areas will not be accepted.

4.2 Where clause 4.1 does not apply, all prices quoted are exclusive of VAT unless otherwise stated and you must pay any applicable VAT in addition to the price payable for the Goods. The price of the Goods does not include delivery charges and the delivery charges will be stated separately. The delivery charges will be payable by you in addition to the price of the Goods.

4.3 We sell a large number of Goods. It is always possible that, despite our efforts, some of the Goods in our sales material or on our website may be incorrectly priced. We will normally check prices as part of our confirmation procedures so that if we discover an error in the price of the Goods you have ordered we will inform you in writing of this error and we will give you the option of continuing to purchase the Goods at the correct price or cancelling your order. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing. Please note that your order is only an offer for us to contract with you, and without prejudice to that, if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mispricing, we do not have to provide the Goods to you at the incorrect (lower) price.

5. PAYMENT

5.1 Payment for the Goods and all applicable delivery charges is in advance.

5.2 You own the Goods once we have received payment in full, including all applicable delivery charges.

6. EVENTS BEYOND OUR CONTROL

6.1 For the purposes of this Contract, **Event Beyond Our Control** means an event beyond our reasonable control including but not limited to strikes, lock-outs or other industrial disputes (whether involving our workforce or that of any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

6.2 We shall not be liable to you as a result of any delay or failure to perform our obligations under this Contract as a result of an Event Beyond Our Control.

6.3 If the Event Beyond Our Control prevents us from providing any of the Goods for more than 8 weeks, we shall, without limiting our other rights or remedies, have the right to terminate this Contract immediately by giving written notice to you.

7. OUR RIGHT TO VARY THESE TERMS

7.1 We may revise these Terms from time to time due to:

- (a) changes in how we accept payment from you;
- (b) changes in how we operate; or
- (c) changes in relevant laws and regulatory requirements.

7.2 Every time you order Goods from us, the Terms in force at that time will apply to the Contract between you and us.

7.3 Whenever we revise these Terms in accordance with this clause 7, we will give you notice of this by stating at the top of this page that these Terms have been amended and the relevant date of the amendment.

7.4 For certainty, except as set out in these Terms, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by one of our directors.

8. COMMUNICATIONS BETWEEN US

8.1 When we refer, in these Terms, to **in writing**, this will include e-mail.

- 8.2 If you wish to contact us in writing you can send this to us by e-mail or by pre-paid post to Customer Relations, MCL Group, New Street, Biddulph Moor, Stoke-on-Trent, Staffordshire ST8 7NL or by email to sales@mcl-grp.co.uk. You can always contact us using our Customer Services telephone line 01782 375450. Please contact us using these details if you have any complaints.
- 8.3 If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your Order.
- 8.4 You agree that any communications we send to you electronically satisfy any legal requirement that such communications be in writing.

9. OTHER IMPORTANT TERMS

- 9.1 We may transfer our rights and obligations under the Contract to another organisation, but this will not affect your rights or our obligations under these Terms.
- 9.2 You may only transfer your rights or your obligations under the Contract to another person if we agree in writing. However, if you are a consumer and you have purchased the Goods as a gift, you may transfer the benefit of our warranty in clause 11 to the recipient of the gift without needing to ask our consent.
- 9.3 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 9.4 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 9.5 We retain title to and ownership of all intellectual property rights in the Goods save where the Goods are manufactured to your specification, in which case you retain the intellectual property rights in your specification but will allow us to use those rights for all purposes connected with the Contract.
- 9.6 This contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties Act) 1999 or otherwise. However, if you are a consumer who has bought the Goods as a gift, the recipient of your gift of Goods will have the benefit of our warranty at clause 11, but we and you will not need their consent to cancel or make any changes to these Terms.
- 9.7 Please note that these Terms are governed by English law. This means that English law will apply to the Contract and any dispute or claim arising out of or in connection with it. You and we both agree that any court proceedings can be brought in the courts of England and Wales. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are a resident of Scotland, you may also bring proceedings in Scotland.

10. IF YOU ARE A CONSUMER (CONSUMERS ONLY)

- 10.1 We only supply the Goods to consumers for domestic and private use.
- 10.2 You may only purchase Goods from us if you are at least 18 years old.
- 10.3 As a consumer, you have legal rights in relation to Goods that are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Terms will affect these legal rights.

11. CONSUMER WARRANTY (CONSUMERS ONLY)

- 11.1 We warrant that on delivery the Goods shall:
- (a) conform in all material respects with their description and any applicable Specification;
 - (b) be free from material defects in design, material and workmanship;
 - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - (d) be reasonably fit for any reasonable purpose held out by us.

11.2 This warranty is in addition to your legal rights in relation to Goods that are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office.

12. OUR LIABILITY: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE (CONSUMERS ONLY)

12.1 At your request we may provide you with technical advice or assistance. We will use all reasonable endeavours to ensure such advice is accurate but we will not be liable to you in any way for any loss or damage arising from such advice unless such advice is fraudulent.

12.2 If we fail to comply with these Terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breach of these Terms or our negligence, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we entered into the Contract.

12.3 You agree not to use the product for any commercial, business or re-sale purposes.

12.4 We will not be liable to you for:

- (a) any indirect loss or any loss which is not a reasonably foreseeable consequence of our negligence or breach of the Contract (including loss of profits, business, revenue, contracts or anticipated savings, wasted expenses or any other purely financial losses);
- (b) any business loss (including loss of profits, business, revenue, contracts or anticipated savings, wasted expenses or any other purely financial losses) even if such loss was reasonably foreseeable or we had been advised of the possibility of you incurring such loss; or
- (c) direct physical damage to your property unless it has been caused by our negligence or the negligence of their employees, agents or contractors while acting in the course of their employment (and even then our liability will not be more than £100,000 for any one event or series of connected events).

12.5 We do not in any way exclude or limit our liability for:

- (a) death or personal injury caused by our negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
- (d) any breach of the terms implied by section 13 to 15 of the Sale of Goods Act 1979 (description, satisfactory quality, fitness for purpose and samples); and
- (e) defective products under the Consumer Protection Act 1987.

13. YOUR CONSUMER RIGHT OF RETURN AND REFUND (CONSUMERS ONLY)

13.1 If we are unable to deliver to you within 30 days of your order, or if later, 14 days from the estimated delivery date, then we will notify you of this in writing and, unless we agree with you otherwise, we will cancel your order. On cancellation of the order any payment you made for the price of the Goods and applicable delivery charges will be refunded as soon as possible.

13.2 If you are a consumer, you have a legal right to cancel a Contract under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 during the period set out below in clause 13.4. This means that during the relevant period if you change your mind or decide for any other reason that you do not want to receive or keep the Goods, you can notify us of your decision to cancel the Contract and receive a refund. Advice about your legal right to cancel the Contract is available from your local Citizens' Advice Bureau or Trading Standards office.

13.3 However, this cancellation right does not apply in the case of:

- (a) any products made to your specification or clearly personalised; or
- (b) goods that cannot be returned in the same physical state as they were supplied.

13.4 Your legal right to cancel a Contract starts from the date of the Order Confirmation (the date on which we e-mail you to confirm our acceptance of your order), which is when the Contract between

us is formed. Your deadline for cancelling the Contract then depends on what you have ordered and how it is delivered, as set out in the table below:

Your Contract	End of the cancellation period
Your Contract is for a single delivery of Goods (one which is not delivered in instalments on separate days).	The end date is the end of 14 days after the day on which you receive the Goods. Example: if we provide you with an Order Confirmation on 1 January and you receive the Goods on 10 January you may cancel at any time between 1 January and the end of the day on 24 January.
Your Contract is one where the Goods are delivered in instalments on separate days.	The end date is 14 days after the day on which you receive the last instalment of the Goods ordered. Example: if we provide you with an Order Confirmation on 1 January and you receive the first instalment of your Goods or the first of your separate Goods on 10 January and the last instalment or last separate Goods on 15 January you may cancel in respect of all instalments and any or all of the separate Goods at any time between 1 January and the end of the day on 29 January.

- 13.5 To cancel a Contract, you just need to let us know that you have decided to cancel. The easiest way to do this is to complete the cancellation form at www.meterboxes.co.uk/cancellation on our website. A link to the website cancellation form will be included in our Order Confirmation. If you use this method we will e-mail you to confirm we have received your cancellation.
- 13.6 You can also e-mail us at sales@mcl-grp.co.uk or contact our Customer Services team by telephone on 01782 375450 or by post to Customer Relations, MCL Group, New Street, Biddulph Moor, Stoke-on-Trent, Staffordshire ST8 7NL. If you are e-mailing us or writing to us please include details of your order to help us to identify it. You can use the cancellation form set out at the end of these terms and conditions if you wish. If you send us your cancellation notice by e-mail or by post, then your cancellation is effective from the date you send us the e-mail or post the letter to us. For example, you will have given us notice in time as long as you get your letter into the last post on the last day of the cancellation period or e-mail us before midnight on that day.
- 13.7 If you cancel your Contract we will:
- (a) refund you the price you paid for the Goods. However, please note we are permitted by law to reduce your refund to reflect any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted in a shop. In particular, due to the stresses and wear caused to Goods which require assembly, once they are assembled by you they cannot be returned in the same physical state. In respect of Goods which require assembly by you, you should inspect and assess them and ensure that they are suitable prior to assembly. Please see our Returns page www.meterboxes.co.uk/returns for more information about what handling is acceptable and examples.
 - (b) refund any delivery costs you have paid, although, as permitted by law, the maximum refund will be the costs of delivery by the least expensive delivery method we offer (provided that this is a common and generally acceptable method). For example, if we offer delivery of Goods within 3-5 days at one cost but you choose to have the Goods delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option.
 - (c) make any refunds due to you as soon as possible and in any event within the deadlines indicated below:
 - (i) if you have received the Goods and we have not offered to collect them from you: 14 days after the day on which we receive the Goods back from you or, if earlier, the day on which you provide us with evidence that you have sent the Goods back to us. For information about how to return Goods to us, see clause 13.10;

- (ii) if you have not received the Goods or you have received them and we have offered to collect them from you: 14 days after you inform us of your decision to cancel the Contract.
- 13.8 If you have returned the Goods to us under this Clause 9 because they are faulty or mis-described, we will refund the price of the Goods in full, together with any applicable delivery charges, and any reasonable costs you incur in returning the item to us.
- 13.9 We will refund you on the credit card or debit card used by you to pay.
- 13.10 If the Goods have been delivered to you before you decide to cancel your Contract:
 - (a) then you must return them to us without undue delay and in any event not later than 14 days after the day on which you let us know that you wish to cancel the Contract. You can either send them back, or hand them to our authorised carrier. Please see our Returns page www.meterboxes.co.uk/returns for our returns address and printable returns forms. If on receiving notice of cancellation from you we have offered to collect the Goods from you, we will collect the Goods from the address to which they were delivered. We will contact you to arrange a suitable time for collection;
 - (b) unless the Goods are faulty or not as described (in this case, see clause 13.8), you will be responsible for the cost of returning the Goods to us. If the Goods are ones which cannot be returned by post, we estimate that if you use the carrier which delivered the Goods to you, these costs should not exceed the sums we charged you for delivery. If we have offered to collect the Goods from you, we will charge you the direct cost to us of collection. The collection charges are shown on the returns form available at www.meterboxes.co.uk/returns.
- 13.11 Because you are a consumer, we are under a legal duty to supply Goods that are in conformity with this Contract. As a consumer, you have legal rights in relation to Goods that are faulty or not as described. These legal rights are not affected by your right of return and refund in this clause 13 or anything else in these Terms. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office.

CLAUSES 14 TO 33: THESE CLAUSES ONLY APPLY IF YOU ARE A BUSINESS CUSTOMER:

14. IF YOU ARE A BUSINESS CUSTOMER

- 14.1 If you are not a consumer, clauses 10 to 13 above do not apply to the Contract.
- 14.2 You confirm that you have authority to bind any business on whose behalf you purchase Goods from us.
- 14.3 If there has been no previous Order Confirmation, where we provide production drawings to you, the provision of those production drawings shall be treated as an Order Confirmation and the Delivery date shall be as set out in our quotation, or if there is no delivery date set out in the quotation then it shall be within a reasonable time.
- 14.4 These Terms and any document expressly referred to in them constitutes the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in these Terms or any document expressly referred to in them.
- 14.5 These Terms apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 14.6 Any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

14.7 In clauses 14 to 33, **Business Day** means a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

15. DESCRIPTION

15.1 The quantity and description of the Goods shall be as set out in the Specification.

15.2 You must ensure that the Specification is complete and accurate.

15.3 We have the right to make any changes to the Goods which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Goods.

16. SELECTION AND INSTALLATION

16.1 It is your responsibility to ensure that the Goods are suitable for your intended use. We do not accept responsibility for the performance of the Goods outside the Specification.

16.2 We provide a wide range of technical advice in the form of paper and electronic publications, and verbal and written advice from our Customer Services Department. However, save where expressly agreed in writing by us, you shall be solely responsible for the selection and installation of the Goods and you must check the suitability of any advice received from our Customer Services Department. We shall not be responsible for any loss or damage arising from the inappropriate selection or installation of the Goods or use of any technical advice from our Customer Services Department.

16.3 To the extent that the Goods are to be manufactured in accordance with a specification supplied by you, or any process is applied to the Goods by us in accordance with specifications supplied by you:

- (a) we accept no liability for the satisfactory quality or fitness for purpose of any special or non-standard specifications supplied by you; and
- (b) you shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by us in connection with any claim made against us for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with our use of the Specification. This clause 16.3(b) shall survive termination of the Contract.

17. ADDITIONAL TERMS REGARDING DELIVERY TO A BUSINESS

17.1 This clause 17 is in addition to the provisions of clause 3.

17.2 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence.

17.3 Where the Contract provides for or we agree in writing to delivery to a Delivery Location you shall be responsible for:

- (a) the costs of and provision of suitable offloading equipment and manpower;
- (b) safe access to the offloading area;
- (c) ensuring that the offloading is completed without undue delay and that if there is any such delay that you shall be responsible for the costs of it.

17.4 Unless otherwise agreed in writing, if you require us to provide offloading equipment or manpower or both then we will supply such at an additional charge to you.

17.5 Where we cannot deliver the Goods due to your failure to comply with clause 17.3 then:

- (a) we will redeliver the Goods at your cost on a date convenient to both you and us; or
- (b) you can collect the Goods from our premises.

17.6 If we fail to deliver the Goods within a reasonable time from any stated delivery date, our liability shall be limited to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. We shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by an Event Beyond Our Control, your failure to provide us with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

- 17.7 If you fail to accept or take delivery of the Goods within 5 Business Days of us notifying you that the Goods are ready, then except where such failure or delay is caused by an Event Beyond Our Control or by our failure to comply with our obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the 6th Business Day following the day on which we notified you that the Goods were ready; and
 - (b) we shall store the Goods until delivery takes place, and charge you for all related costs and expenses (including insurance); and
 - (c) we may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to you for any excess over the price of the Goods or charge you for any shortfall below the price of the Goods.
- 17.8 You shall not be entitled to reject the Goods if we deliver up to and including 10 per cent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from you that the wrong quantity of Goods was delivered.
- 17.9 We may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.
- 17.10 Subject to clause 17.11, if on delivery any Goods are missing, lost or damaged we will at our own expense make good the discrepancy within a reasonable period by replacement or repair or at our option by allowing a credit for their invoice value.
- 17.11 We will only be liable to you for non-delivery or damage in transit of the Goods if:
- (a) in respect of a shortfall or non-delivery you give written notice to us of such within 5 Business Days of the date of our advice note or invoice advising of the dispatch of the Goods; or
 - (b) in respect of damage in transit you give written notice to us within 3 Business Days after the date of delivery of the Goods.

18. TESTING OF GOODS

- 18.1 We will allow you to inspect and test the Goods prior to delivery provided that:
- (a) You give us reasonable written notice of the inspection or testing you require; and
 - (b) You are responsible for all costs incurred by us as a consequence of such inspection or testing and, where we at our absolute discretion decide necessary, you shall pay a reasonable estimate of such costs on account.

19. WHERE GOODS PURCHASED FOR RESALE

- 19.1 You must keep all stocks of the Goods which you hold in a clean and saleable condition and in conditions appropriate for their storage at your own cost.
- 19.2 You must not use, alter or add to any of our marketing materials, manuals or instructions without our express written permission and we may grant or withdraw permission at our exclusive discretion.
- 19.3 All representations of our logo that you intend to use shall be submitted to us for our written approval before use and we may grant or withdraw permission at our exclusive discretion.
- 19.4 You shall not without our prior written consent alter or make any addition to the labelling or packaging of the Goods. You shall not alter, deface or remove any reference to our name or any other name displayed on the Products or their packaging or labelling.

20. WARRANTY

- 20.1 We warrant that on delivery the Goods shall:
- (a) conform in all material respects with their description and any applicable Specification;
 - (b) be free from material defects in design, material and workmanship;
 - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - (d) be reasonably fit for any reasonable purpose held out by us.

21. TITLE IN THE GOODS

- 21.1 Title to the Goods shall not pass to you until we have received payment in full (in cash or cleared funds) for:
- (a) the Goods; and
 - (b) any other goods that we have supplied to you in respect of which payment has become due.
- 21.2 Until title to the Goods has passed to you, you shall:
- (a) hold the Goods on a fiduciary basis as our bailee;
 - (b) store the Goods separately from all other goods held by you so that they remain readily identifiable as our property;
 - (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on our behalf from the date of delivery;
 - (e) notify us immediately if you become subject to any of the events listed in clause 30.1(b) to clause 30.1(m); and
 - (f) give us such information relating to the Goods as we may require from time to time,
- but you may resell or use the Goods in the ordinary course of your business.
- 21.3 If, before title to the Goods passes to you, you become subject to any of the events listed in clause 30.1(b) to clause 30.1(m), or we reasonably believe that any such event is about to happen and notify you accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy we may have, we may at any time require you to deliver up the Goods and, if you fail to do so promptly, enter any of your premises or of any third party where the Goods are stored in order to recover them.
- 21.4 We shall be entitled to maintain an action for the price of the Goods even though title in them has not passed to you.
- 21.5 We transfer to you only such title and rights of use as we have in the Goods and in the case of items provided by any third party shall transfer only such title and rights as that party has transferred to us.

22. BREACH OF WARRANTY

- 22.1 We will not be liable for any breach of the warranty set out in clause 20 unless:
- (a) if the breach would be apparent on a reasonable examination of the Goods, you give written notice of such breach to us within 10 Business Days after your receipt of the Goods;
 - (b) if the breach would not be apparent on a reasonable examination of the Goods, you give written notice of such breach to us within 12 months after your receipt of the Goods and 10 Business Days after your discovery of the breach
- and such written notice shall specify the Goods affected and alleged defect with the affected Goods.
- 22.2 Subject to clause 22.3, if:
- (a) you give notice in writing in accordance with clause 22.1 that some or all of the Goods do not comply with the warranty set out in clause 19;
 - (b) we are given a reasonable opportunity of examining such Goods; and
 - (c) you (if asked to do so by us) return such Goods to our place of business at your cost,
- we shall, at our option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 22.3 We shall not be liable for the Goods' failure to comply with the warranty in clause 19 if:

- (a) you make any further use of such Goods after giving a notice in accordance with clause 22.1;
- (b) the defect arises as a result of us following any drawing, design, specification or instruction issued by you or on your behalf;
- (c) the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- (d) following delivery of the Goods to you the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- (e) you alter or repair the Goods without our written consent; or
- (f) the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

22.4 Except as provided in this clause 22, we shall have no liability to you in respect of the Goods' failure to comply with the warranty set out in clause 19.

22.5 These Terms shall apply to any repaired or replacement Goods supplied by us under clause 22.2.

23. YOUR OBLIGATIONS

23.1 You shall:

- (a) provide us, our employees, agents, consultants and subcontractors, with access to the Delivery Location and other facilities as reasonably required by us;
- (b) provide us with such information and materials as we may reasonably require to manufacture and deliver the Goods, and ensure that such information is accurate in all material respects;
- (c) prepare the Delivery Location for the safe and efficient delivery of the Goods;
- (d) be liable for and shall indemnify us against any expense liability loss claim or proceedings whatsoever in respect of personal injury or death of any person arising out of or in the course of or caused by the delivery of the Goods to the Delivery Location except to the extent that the same is due to our act or neglect.

23.2 If our performance of any of our obligations under the Contract is prevented or delayed by any act or omission by you or failure by you to perform any of your obligations (**Your Default**):

- (a) we shall, without limiting our other rights or remedies, have the right to suspend performance until you remedy Your Default, and to rely on Your Default to relieve us from the performance of any of our obligations to the extent Your Default prevents or delays our performance of any of our obligations;
- (b) we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause 23.2; and
- (c) you shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from Your Default.

24. PRICE VARIATION

24.1 Subject to clause 4.3 above, unless otherwise expressly agreed by us in writing or set out in our quotation or Order Confirmation, the price for Goods shall be the price set out in our price list as at the date of delivery.

24.2 We reserve the right to increase the price of the Goods, by giving notice to you at any time before delivery, to reflect any increase in the cost of the Goods to us that is due to:

- (a) any factor beyond our the control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by you to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

- (c) any delay caused by any instructions of you in respect of the Goods or failure of you to give us adequate or accurate information or instructions in respect of the Goods.

25. CREDIT TERMS

- 25.1 We may at our discretion offer to supply the Goods to you on credit in which case the following provisions of this clause apply. We may withdraw such credit facilities at any time in which event you shall pay all sums then payable under the Contract immediately on invoice.
- 25.2 We shall invoice you on or at any time after completion of delivery. We reserve the right to request a payment on account before manufacturing or supplying Goods where we believe it is appropriate.
- 25.3 You shall pay each invoice submitted by us:
 - (a) within the period ending 30 days after the end of the calendar month in which the invoice is raised; and
 - (b) in full and in cleared funds to a bank account nominated in writing by us, and time for payment shall be of the essence of the Contract.
- 25.4 If you fail to make any payment due to us under the Contract by the due date for payment, then:
 - (a) you shall pay interest on the overdue amount at the rate of 12% per annum above Barclays Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount; and
 - (b) we may suspend further deliveries of the Goods or terminate the Contract in accordance with clause 30.2.
- 25.5 You shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. We may, without limiting our other rights or remedies, set off any amount owing to us by you against any amount payable by us to you.
- 25.6 You shall pay on demand and on a full indemnity basis all costs and expenses which we may from time to time incur in connection with:
 - (a) enforcing the payment of any sum due to us under this agreement (including costs relating to any instruction of a debt collection agency); or
 - (b) successfully defending a claim brought by you relating to this agreement.

26. CONFIDENTIALITY

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 26 shall survive termination of the Contract.

27. INTELLECTUAL PROPERTY

- 27.1 We shall indemnify you against all liabilities, costs, expenses and damages suffered by you arising out of or in connection with any claim made against you for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods (save where clause 16.3 applies).
- 27.2 Our liability under clause 27.1 is conditional on you discharging the following obligations. If any third party makes a claim, or notifies an intention to make a claim, against you which may reasonably be considered likely to give rise to a liability under clause 27.1 (**Claim**), you shall:

- (a) as soon as reasonably practicable, give written notice of the Claim to us, specifying the nature of the Claim in reasonable detail;
- (b) not make any admission of liability, agreement or compromise in relation to the Claim without our prior written consent;
- (c) give us and our professional advisers access at reasonable times (on reasonable prior notice) to your premises and your officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within your power or control, so as to enable us and our professional advisers to examine them and to take copies at our expense for the purpose of assessing the Claim; and
- (d) be deemed to have given us sole authority to avoid, dispute, compromise or defend the Claim.

27.3 Nothing in this clause shall restrict or limit your general obligation at law to mitigate a loss you may suffer or incur as a result of an event that may give rise to a claim under clause 27.1.

28. LIMITATION OF LIABILITY: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

28.1 You acknowledge that it is reasonable for us to limit our liability to you as:

- (a) it is not commercially sensible to accept unlimited liability especially given the nature and complexity of the Goods;
- (b) in the interests of keeping the price to a reasonable level we cannot be liable for every risk normally associated with the Goods.

28.2 Nothing in these Terms shall limit or exclude our liability for:

- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Works Act 1982 (title and quiet possession);
- (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) defective products under the Consumer Protection Act 1987.

28.3 Subject to clause 28.2:

- (a) we shall under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise:
 - (i) for any damage caused by your failure to comply with any your obligations in the Contract; or
 - (ii) for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total charges made by us in relation to the Contract for the Goods.

28.4 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

28.5 Subject to the other provisions of these Terms we shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by our negligence), nor shall any delay entitle you to end or rescind the Contract unless such delay exceeds 90 days.

- 28.6 To the extent not already excluded by these Terms, our maximum liability for physical damage to tangible personal or real property shall not exceed £10,000.00 per event or series of events inclusive of your costs and expenses.
- 28.7 We shall be discharged of any liability to you under the Contract unless proceedings are begun within 12 months after you became or should reasonably have become aware of the facts giving rise to such liability.
- 28.8 This clause 28 shall survive termination of the Contract.

29. INTERNATIONAL CONTRACTS

You are responsible for obtaining, at your own cost, such import licences and other consents in relation to the Goods as are required from time to time and, if required by us, you shall make those licences and consents available to us prior to the relevant shipment.

30. TERMINATION

- 30.1 Without limiting our other rights or remedies, we may terminate the Contract with immediate effect by giving written notice to you if:
- (a) you commit a material breach of your obligations under this Contract and (if such breach is remediable) fail to remedy that breach within 7 days after receipt of notice in writing to do so;
 - (b) you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit your inability to pay your debts or (being a company or limited liability partnership) are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) you are deemed either unable to pay your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) you have any partner to whom any of the foregoing apply;
 - (c) you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or makes a proposal for or enters into any compromise or arrangement with your creditors;
 - (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up (being a company) other than for the sole purpose of a scheme for your solvent amalgamation with one or more other companies or your solvent reconstruction;
 - (e) you (being an individual) are the subject of a bankruptcy petition or order;
 - (f) a creditor or encumbrancer of yours attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;
 - (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over you (being a company);
 - (h) the holder of a qualifying charge over your assets (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (i) a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;
 - (j) any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in clause 30.1(b) to clause 30.1(i) (inclusive);
 - (k) you suspend, threaten to suspend, cease or threaten to cease to carry on, all or substantially the whole of your business;
 - (l) your financial position deteriorates to such an extent that, in our opinion, your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy; or

- (m) you (being an individual) die or, by reason of illness or incapacity (whether mental or physical), are incapable of managing your own affairs or become a patient under any mental health legislation.

30.2 if you fail to pay any amount due under this Contract or any other contract you have with us on the due date for payment, you become subject to any of the events listed in clause 30.1(b) to clause 30.1(m), or we reasonably believe that you are about to become subject to any of them, then without limiting our other rights or remedies, we may:

- (a) immediately suspend all further deliveries of Goods under the Contract or any other contract between you and us; or
- (b) whether or not we have previously exercised our right under clause 30.2(a), terminate the Contract with immediate effect by giving written notice to you.

31. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) you shall immediately pay to us all of our outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has yet been submitted, we shall submit an invoice, which shall be payable by you immediately on receipt;
- (b) you shall return all of the Goods which have not been fully paid for. If you fail to do so, then we may enter your premises and take possession of them. Until they have been returned, you shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) Terms which expressly or by implication have effect after termination shall continue in full force and effect.

32. EXPERT DETERMINATION

32.1 In the event of any dispute regarding the amount due to us as a consequence of any dispute or difference arising out of or in connection with the Specification, manufacture, quality or condition of the Goods then we may instruct a Chartered Engineer (**Expert**) in writing to certify the amount which in his opinion is due to us.

32.2 Save as otherwise provided, in certifying the amount due to us, the Expert:

- (a) shall produce a written certificate;
- (b) shall act impartially;
- (c) shall ensure that the certification takes place with due expedition;
- (d) may inspect or require the inspection of any document, site, property, product or process as he considers just or appropriate;
- (e) to the extent not provided for by this clause, the Expert may in his reasonable discretion determine such other procedures to assist with the conduct of the determination as he considers just or appropriate;
- (f) if the parties do not co-operate with the Expert then he may draw such conclusions from that lack of cooperation as it deems appropriate; and
- (g) shall act as an expert and not as an arbitrator.

32.3 The certificate shall be binding on the parties until the dispute or difference is finally determined by legal proceedings or by agreement.

32.4 The Expert may direct that any legal costs and expenses incurred by a party in respect of the determination shall be paid by another party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, this is not appropriate in relation to the whole or part of such costs.

- 32.5 The Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties equally or in such other proportions as the Expert shall direct.
- 32.6 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.
- 32.7 Each party shall act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching his determination.
- 32.8 If any sum is payable as a consequence of the Expert's certificate it shall be paid without set off or counterclaim save for liquidated and ascertained sums and the payee shall be entitled to summary judgment in respect of any sum found to be payable as a consequence of the certificate.

33. DISPUTE RESOLUTION PROCEDURE

- 33.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:
- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the directors or other senior representatives of the parties with authority to settle the Dispute shall attempt in good faith to resolve the Dispute; and
 - (b) if the directors or other senior representatives are for any reason unable to resolve the Dispute within 15 Business Days of the Dispute Notice being served, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 20 Business Days after the date of the ADR notice.
- 33.2 No party may commence any court proceedings under clause 9.7 in relation to the whole or part of the Dispute until 25 Business Days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.
- 33.3 If the Dispute is not resolved within 25 Business Days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 25 Business Days, or the mediation terminates before the expiration of the said period of 25 Business Days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 9.7.

CANCELLATION FORM (CONSUMERS ONLY)

To: Customer Relations, MCL Group, New Street, Biddulph Moor, Stoke-on-Trent, Staffordshire ST8 7NL

I: _____

Give notice that I request to cancel my order for the following goods: _____

Order number: _____

Ordered on: _____

Your address: _____

Your email address: _____

Your signature:

Date: