

Forster Profile Systems (UK) Limited (referred to as "we", "our" and "us" in these terms) suggest that the customer (referred to as "you" and "your" in these terms) should spend some time in reading through these terms of trading. This is because these conditions shall apply to any contract between the parties. We want you to feel confident in accepting our offer to provide products to you. If you have any questions or queries relating to any of these terms, please feel free to contact us before you enter into the Contract.

**Definitions**

In this Contract, the following definitions apply:

**Contract:** the Contract between us as the supplier and you as the customer for the sale and purchase of the Goods in accordance with and incorporating these terms and conditions.

**Goods:** the Goods (or any part of them) set out in the Order.

**Order:** your Order for the Goods, as set out in your purchase order form.

**Quotation:** our Quotation in relation to the proposed supply of the Goods.

**Specification:** any Specification for the Goods, including any related plans and drawings that are agreed in writing by us or are set out in our product brochures and catalogues, from time to time in force.

**1. Application of these terms**

To protect your interests, please read the conditions carefully before agreeing to them. If you are uncertain as to your rights as set out below or you want any explanation about them, please write, telephone or send an e-mail to us, at our trading address.

These terms shall prevail over any terms put forward by you, unless we expressly agree to them in writing. No conduct by us, our employees, agents or sub-contractors shall be deemed to constitute acceptance of any terms put forward by you.

Each Order for Goods shall be deemed to be an offer by you to purchase the Goods subject to these conditions. Once we accept your Order, both parties will have entered into a legally binding Contract.

You may give us an Order number, but it will only be accepted by us as evidence that your internal administrative system will pay our invoice. Your Order number will not be accepted by us for any other purpose other than as evidence of your intention to enter a legally binding contract with us on these terms of trading.

**2. Formation of contract**

We accept Orders at our discretion. If we accept an Order from you, the Contract will be formed on these conditions, as outlined in clause above.

No Order placed by you shall be deemed to be accepted until a written acknowledgement of acceptance of the Order is issued by us of (if earlier) we deliver the Goods to you, or at your instruction, to a third party.

Any Quotation is given on the basis that no contract will come into existence until we dispatch an acknowledgement of acceptance of Order. A Quotation is open for 28 days from the date printed on the Quotation, unless we confirm otherwise specifically in writing. We reserve the right to withdraw a Quotation at any time.

If you do not accept these terms and conditions of trading, any Quotation is withdrawn. As a result, there will not be a legally binding contract between the parties.

It is your responsibility to ensure that the contents and specifications of our Quotation and any Order arising therefrom are complete and accurate and reflect your requirements.

**3. Prices**

Unless agreed otherwise in writing the price of any Goods shall be in accordance with any Quotation or otherwise is set out in our current price list applicable at the time of acceptance of any Order. We reserve the right to amend our price list at any without notice. We reserve the right, from time to time, to provide you with a Quotation in which the cost we offer differs from the current list price.

Any prices quoted are, unless otherwise stated, exclusive of any value added tax or other applicable taxation and, our charges for carriage, insurance and packing which you will be required to pay in addition.

**4. Payment**

In the case of credit sales, you agree to pay us 30 days following the date of our invoice. In all other circumstances, you agree to pay us on a pro-forma basis. Time for payment is of the essence.

If payment is not received in accordance with clause, we reserve the right to charge interest on all outstanding monies due to us from the date of invoice at the rate of 8 per cent above the clearing bank base rate current at the time. The rate of interest will be calculated on a daily basis.

All sums payable to us under the Contract shall be payable immediately in the event of termination of the Contract for any reason.

You shall make all payments to us free from any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

**5. Cancellation**

If you cancel your Order at any time, we reserve the right to charge you for the cost of any work we have done before you cancelled your Order.

All Goods which are marked with 'on request' (PD) on our documents are manufactured order-related. This position is excluded from cancellation or returning.

**6. Delivery**

We will deliver your Order to you within the time agreed between us. Unless you specify a precise time for delivery, your Order will be delivered to you during normal working hours, that is between 9 am and 5 pm.

Time for delivery will not be of the essence of the Contract unless we agree with you in writing before we enter the Contract.

If you want us to deliver the Order sooner than at the time we agreed with you, we will make reasonable efforts to accommodate your request. To protect both parties to this Contract, your request and the details of any additional costs incurred will be agreed in writing between the parties.

If the production process is such that we cannot accelerate the date of delivery, you agree to accept the delivery of your Order on the date we agreed when you entered the Contract with us.

You will ensure that our employees and agents have safe and proper means of access to your delivery point. Unless agreed otherwise you will be responsible for unloading the Goods.

Subject to any other term of these Conditions, we shall not be liable for any loss (including loss of profits), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery or the Goods nor will any delay entitle you to terminate or rescind the Contract.

**7. Inspection, short delivery or damage to Goods**

You agree to inspect the Goods immediately after they have been delivered. If you discover the Goods supplied to you are damaged, you agree to inform us in writing within 2 days of receipt of the Goods.

Should you not receive the correct quantity of Goods, or the Goods are damaged, or the Goods are not what you ordered, you agree to notify us in writing within 24 hours of the delivery, setting out the precise nature of the problem. We will use reasonable efforts to identify the cause and, if appropriate, rectify any problems accordingly.

Where you receive an invoice for Goods that have not been delivered, you agree to inform us in writing within 14 days of the date of the invoice.

Subject to any notification from you in the timescales set out above, delivery of the Goods shall be conclusive evidence that you have examined the Goods and that they conform with any Contract description, are in good order and condition, or satisfactory quality and fit for any purpose for which they may be required.

**8. Return of Goods**

Delivery drivers have no authority to accept Goods for return unless you have informed us in writing that you wish to return the Goods and we have agreed to accept the Goods back.

When we agree to accept the Goods back, you agree to pay for the cost of carriage and the Goods will be returned to us at your risk. We reserve the right to charge you for re-stocking the Goods returned, at the minimum rate of 30 per cent of the Order value.

No returning of Goods, which were delivered for more than 12 months (invoice date is relevant).

**9. Failure to take delivery**

If you fail to accept delivery of the Goods, risk in the Goods shall pass to you and you will be liable to pay the price of the Goods in full.

In addition to the terms of sub-clause, we will send you an invoice immediately and reserve the right to charge you to insure, handle and store the Goods from the date of invoice until the date you take delivery of the Goods.

**10. Unforeseen circumstances**

There may be times where events beyond our control prevent us from completing the Contract on the agreed date. If this occurs, we reserve the right to cancel the Contract or deliver the Goods to you when we are able or in installments. We undertake to inform you of any problems that may occur.

**11. Risk in the Goods**

Where we deliver Goods to you, you shall assume risk in the Goods when we have delivered them to you.

Where you collect Goods from our premises, you accept risk in the Goods as soon as the Goods have been loaded on your vehicle.

**12. Ownership of the Goods**

Ownership of the Goods remains with us until you have paid all amounts due to us in full, including any value added or other applicable taxes.

Until such time as you become the owner of the Goods, you shall possess the Goods on a fiduciary basis as bailee for us, and you agree to insure such Goods and store them on your premises separately from your own Goods or those of any other person or entity in such a way that makes them readily identifiable as the Goods supplied to you by us.

We may recover Goods in respect of which title has not passed to you at any time and you hereby irrevocably authorise us, our officers, employees and agents to enter upon any premises controlled by you where the Goods are stored, or are thought by us to be stored for the purpose either of satisfying ourselves that sub-clause is being complied with by you or of repossessing Goods in respect of which title has not passed to you.

**13. Warranties for the quality of Goods supplied by third parties**

Except as provided for in clause below, we do not accept any liability and offer no warranty in relation to defects in any third party items or Goods incorporated into our products. In addition, we shall not have any liability regarding the fitness for purpose, quality or merchantability of the third party items or Goods, whether express or implied, statutory or otherwise.

We shall use our reasonable endeavours to extend or assign to you, if you request, the benefit of any guarantee, condition or warranty concerning any third party items or Goods, providing you reimburse us all reasonable expenses incurred in extending such benefit.

**14. Quality**

We warrant that on delivery, and for a period of 6 months from the date of delivery (warranty period), the Goods shall conform in all material respects with their description and any applicable Specification, be free from material defects in design,

material and workmanship and be of satisfactory quality (within the meaning of the Sale of Goods Act 1979). Subject to clause, if you give notice in writing to us during the warranty period within 8 days of discovery that some or all of the Goods do not comply with the warranty set out in clause, we are given a reasonable opportunity of examining such Goods, and 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.

We shall not be liable for Goods' failure to comply with the warranty set out in clause in any of the following events: you make any further use of such Goods after giving notice in accordance with clause, the defect arises because you failed to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same, the defect arises as a result of the us following any drawing, design or Specification supplied by you, you alter or repair such Goods without our written consent, the defect is due to the usage of articles other than articles produced by us (if structural parts produced by somebody other than us are used, the test certificates and attestations issued by us for structures assembled in this manner shall be deemed to be invalid), the defects are due to the installation of components from other manufacturers in the facades or metal structures supplied by us, the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

**15. Tooling**

Tooling costs shall be due for payment at the time of the placement of an Order and any tools purchased shall remain our property.

**16. Limitation of liability**

Nothing in these Conditions shall limit or exclude our liability for: death or personal injury caused by our negligence, or the negligence of our employees, agents or sub-contractors (as applicable), fraud or fraudulent misrepresentation, breach of the terms implied by section 12 of the Sale of Goods Act 1979; or defective products under the Consumer Protection Act 1987. Subject to clause: We shall under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, goodwill or business opportunity, or any indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever arising under or in connection with the Contract; and the 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 100% of the price of the Goods paid by you to which the claim relates.

**17. Severance**

The parties agree that in the event of one or more provisions of this Contract being subsequently declared invalid or unenforceable by a court or other authority with jurisdiction, the invalidity or unenforceability of any provisions shall not in any way affect the validity or enforceability of any other provisions except those which compromise an integral part of it or are otherwise clearly inseparable.

**18. Entire Contract**

This Contract sets out the entire terms agreed between the parties relating to the service provided under this Contract and supersedes all previous representations, warranties and terms (whether in writing or not) previously made between the parties.

**19. General**

You are not entitled to assign the Contract or any part of it without our prior written consent.

No failure or delay by us in exercising or enforcing any provision of this Contract shall be construed as a waiver of any of our

rights under the Contract.

Any waiver of any breach or default under any provision of the Contract shall not be deemed to be a waiver of any subsequent breach.

Nothing in these conditions confers on any third party any benefit or right to enforce any terms of the Contract.

**20. Applicable law**

The Contract between the parties is to be governed by and construed according to English law and the parties agree to submit any disputes to the exclusive jurisdiction of the English Courts.