



# TERMS AND CONDITIONS OF SALE

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY. YOUR ATTENTION IS DRAWN IN PARTICULAR TO CLAUSES 4.1, 4.2 AND 10

## 1. Interpretation

1.1 In these Conditions:

**"Company"** means **Lion Insulations Limited** (company number 2057090) whose registered office is at Globe House, Eclipse Park, Sittingbourne Road, Maidstone, Kent ME14 3EN.

**"Conditions"** means the standard terms and conditions of sale set out in this document and (unless the context otherwise required) includes any special terms and conditions agreed in writing between the Customer and the Company.

**"Contract"** means the contract between the Company and the Customer for the purchase and sale of the Installation, incorporating these Conditions and the Quotation.

**"Customer"** means the person to whom the Installation is supplied by the Company.

**"Installation"** means the goods (the 'Goods') and services which the Company is to supply in accordance with the Contract.

**"Property"** means the address stipulated in the Contract for supply of the Installation to the Customer as specified in the Quotation.

**"Quotation"** means the quotation issued by the Company to the Customer in connection with the supply of the Installation.

**"Services"** means those services to be carried out by the Company in accordance with the Contract.

1.2 In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.3 In these Conditions references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

1.4 In these Conditions headings will not affect the construction of these Conditions.

## 2. Contract Formation

2.1 The Company shall supply the Installation in accordance with the Contract. These Conditions shall govern the Contract between the Company and the Customer to the exclusion of any other terms and conditions.

2.2 No variation to these Conditions and/or the Contract shall be binding unless agreed in writing by an authorised representative of the Company.

2.3 A Quotation is given on the basis that no Contract will come into existence until the Company confirms an order, as specified at clause 3.1 below. Any quotation is valid for a period of 28 days only from its date, provided that the Company has not previously withdrawn it.

## 3. Orders and Specifications

3.1 A Quotation shall be deemed to be accepted by the Company when the Customer signs the Quotation.

3.2 A Quotation shall detail the specification of the Installation to be supplied by the Company. The Customer shall provide the Company with any necessary information relating to the Contract.

3.3 The Company reserves the right to make any changes in the specification of the Installation which are required to conform with any legal requirements or to safely install the goods and carry out associated services.

3.4 Subject to clause 3.6 any amendments the Customer may require to the Quotation or the specification of the Installation detailed in the Quotation will result in the Company providing a revised Quotation which will be deemed to be accepted by the Company in accordance with clause 3.1.

3.6 No order which has been accepted by the Company may be cancelled or varied by the Customer except with the agreement in writing of the Company.

3.7 The Company may ask the Customer to pay a deposit at time of acceptance of the Contract in accordance with clause 3.1.

## 4. Price of the Installation

4.1 Subject to clause 4.2 below the price of the Installation shall be the price set out in the Quotation or where no price has been quoted the price charged shall be calculated in accordance with the Company's current price list for the goods and services required (including, where applicable, by reference to hourly/daily rates for services) in force at the time the Contract becomes binding.

4.2 Where there is a withdrawal or variation of any funding (including without limitation any grants or subsidiaries) provided by a third party to the Company or the Customer towards the cost of provision of any Installation the Company may at its discretion:

4.2.1 vary any Quotation or the price of the Installation provided that it notifies the Customer in writing in advance; or  
4.2.2 cancel or terminate the Contract without any further liability on its part on fourteen days prior written notice to the Customer. In such circumstances the Customer shall pay for the goods and services that have been provided and supplied up to that date.

4.3 If the Company is unable to complete the Contract due to the fault of the Customer, the Customer shall pay for the goods and services that have been provided and supplied up to the date that the Company ceases to carry out work.

4.4 The prices quoted and/or invoiced by the Company will be inclusive of Value Added Tax.

## 5. Terms of Payment

5.1 The Company shall invoice the Customer for the price of the Installation at the time of supply of the Installation. Where the Company exercises any rights to cancel or terminate the Contract early or to suspend or cease the supply of the Installation in accordance with these Conditions, then it shall be entitled to invoice the Customer for the price of any goods delivered and/or services performed at any time on or after such cancellation, termination, suspension or cessation.

5.2 Unless otherwise agreed in writing by the Company, the Customer shall pay the Company's invoice within 7 days of the date of the Company's invoice.

5.3 The time of payment of any sum payable by the Customer shall be of the essence of the contract. Receipts for payment will be issued only upon request.

5.4 If the Customer fails to make any payment (which is not the subject of a genuine dispute of which the Customer has notified the Company) on the due date then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to charge the Customer interest both before and after any judgment on the amount unpaid at the rate of 4% per annum above NatWest Bank Plc Base Rate from time to time until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

## 6. Delivery and Access

6.1 Unless otherwise agreed by the parties, supply of the Installation shall be made at the Property upon such date or dates agreed between the parties.

6.2 Unless otherwise agreed with the Customer in writing, any times and dates stated for performance and/or delivery are estimates only and in respect thereof time shall not be of the essence of the contract.

6.3 If the Customer for whatever reason (otherwise than by reason of the Company's fault) fails to allow delivery of the Goods then the Company may (without prejudice to its other rights and remedies):

6.3.1 store the goods involved until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage and rearranging delivery; or

6.3.2 sell such goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.

6.4 The Customer is responsible for:

6.4.1 providing a safe means of access from the public highway to the Property;

6.4.2 preparing the location within the Property to enable the Company to supply the Installation and informing the Company or its representatives of any particular circumstances (such as non standard features of the Property or its construction) that may not facilitate reasonably standard delivery of the Installation;

6.4.3 clearing all belongings of the Customer to enable the Company to supply the Installation;

6.4.4 allowing the Company, its employees, agents and representatives reasonable access to the location within the Property where the Installation is to be supplied;

6.5 The Company will be entitled to refuse to supply the Installation without liability to the Customer if the Customer fails to comply with its obligations under clause 6.4 above.

## 7. Insolvency of Customer

7.1 If the Customer:

7.1.1 has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors; or

7.1.2 any proceedings are commenced relating to the insolvency or possible insolvency of the Customer, or

7.1.3 suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it;

7.1.4 fails to observe/perform any of its obligations under the Contract or any other contract between the Company and the Customer; or

7.1.5 is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend supply of the Installation without any liability to the Customer and if the Installation has been supplied but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

7.2 The Company shall be entitled to exercise its rights under clause 7.1 if it reasonably believes that any of the events set out in sub-clauses 7.1.1 – 7.1.6 is about to occur in relation to the Customer and notifies the Customer accordingly.

## 8. Progress and Inspection

8.1 The Customer may inspect the provision of the Installation at any time and must so inspect upon completion of the work.

## 9. Property and Risk in the Goods

9.1 Risk of damage to or loss of the Goods shall pass to the Customer at the time the Goods are delivered to the Property, or if the Customer wrongfully fails to take delivery of the Goods, the dates quoted by the Company for delivery of the Goods. The Customer is responsible for insuring the Goods from that date.

9.2 Property in the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and/or Services, and/or all other sums which are or which become due to the Company from the Customer on any account or, if earlier, when the Goods are fixed to the Customer's property.

9.3 Until ownership of the Goods has passed to the Customer, the Customer must:

9.3.1 hold the Goods on a fiduciary basis as the Company's bailee;

9.3.2 store the Goods separately in such a way that they remain readily identifiable as the Company's property;

9.3.3 not destroy, deface or obscure any identifying mark or packaging on or in relation to the Goods;

9.3.4 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance (together with evidence of payment of premiums) to the Company.

9.4 The Customer's rights to possession of the Goods shall terminate immediately if any of the circumstances set out in clause 7.1 shall apply.

9.5 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

9.6 The Company reserves the right to take legal proceedings to recover the Goods or their value.

9.7 On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights under this clause 9 will remain in effect.

## 10. Warranties and Limitation of Liability

10.1 The Company shall be under no liability in respect of any defect in or damage to the Installation or any part of it arising from fair wear and tear, neglect, fire or smoke damage, weather, accidental damage, wilful damage or negligence or any other default of the Customer.

10.2 The Company shall be under no liability for any damage that the Company, its employees or agents cause to the Customer's belongings where the Customer fails to move the same pursuant to clause 6.4.3.

10.3 The Company will not be responsible in any circumstances for any indirect or consequential loss of the Customer or any loss that is not reasonably foreseeable.

10.4 The Company will have no liability to the Customer for any failure or delay in supplying the Installation where this is due to the default of the Customer, including without limitation, a breach by the Customer of clause 6.

10.5 Where the Company is not the manufacturer of the goods used in the Installation, the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.

10.6 The Company warrants that (subject to the other provisions of these Conditions) upon delivery, and for a period of 12 months from the date of delivery, the goods used in the Installation shall:

10.6.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and

10.6.2 be reasonably fit for the purpose for which they were purchased and installed.

10.7 The Company shall not be liable for a breach of the warranties in clause 10.6 unless:

10.7.1 the Customer gives written notice of the defect to the Company; and

10.7.2 the Company is given a reasonable opportunity after receiving the notice of examining such goods.

10.8 The Company shall not be liable for a breach of any of the warranties in clause 10.6 if the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of such goods or (if there are none) good trade practice; or the Buyer alters or repairs such goods without the written consent of the Company.

10.9 Subject to clauses 10.7 and 10.8, if any of the goods do not conform with any of the warranties in clause 10.6 the Company shall at its option repair or replace such goods.

10.10 If the Company complies with clause 10.9 it shall have no further liability for a breach of any of the warranties in clause 10.6 in respect of such goods.

10.11 Where the Customer deals as a consumer, the Customer has certain statutory rights regarding defective goods and services and claims in respect of losses caused by negligence of the Company or failure by the Company to carry out its obligations and these Conditions shall not affect the Customer's statutory rights as a consumer.

10.12 Nothing in these Conditions limits or excludes, or is intended to limit or exclude the Company's liability for death or personal injury caused by its negligence or for fraudulent misrepresentation.

10.13 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Installation, if the delay or failure was due to any cause beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the withdrawal or variation of any funding (including without limitation any grants or subsidies) provided by a third party to the Company or the Customer towards the cost of provision of the Installation shall be regarded as a cause beyond the parties' reasonable control:

10.14 Subject to the foregoing provisions of this clause 10 the Company's total liability in contract, tort, (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to £10,000.00.

## 11. Guarantees

11.1 Any guarantee issued by the Company shall be for the benefit of the Customer and all subsequent owners of the Property and shall be valid for the period as stated in the guarantee.

11.2 On completion of the Contract the Company shall apply for a guarantee from the Cavity Insulation Guarantee Agency (CIGA Guarantee) which will usually be available between 8 and 12 weeks from completion of the Contract. The Customer acknowledges that the CIGA Guarantee is provided by a party independent of the Company and is separate to any guarantee offered by the Company.

## 12. Data Protection

12.1 Information that the Company may acquire about the Customer whether in accordance with this Agreement or otherwise may be used by the Company, its employees or agents to:

12.1.1 identify the Customer during any communication between the Company and the Customer;

12.1.2 assist in the administration of accounts, services or products provided by the Company or any associated company to the Customer throughout this Agreement and following termination;

12.1.3 assist in detecting fraud or loss; and

12.1.4 write to or telephone the Customer with information about other services or products offered by the Company or any associated company. The Company shall not contact the Customer in this way unless the Customer has consented.

12.2 The Company may, in connection with this Agreement, carry out a credit check against the Customer with any one or more licensed credit reference agencies and the Company will retain a copy of any search. Payment details of the Customer's account with the Company will be recorded with a credit reference agency and may be shared with other organisations to assist the Company in making credit decisions about the Customer and for debt collecting and fraud prevention. This clause also applies to Customers who are in default.

## 13. General

13.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed in the case of a notice to the Company to its Head office at 4 Willesborough Ind Park, Ashford, Kent, TN24 0TD and in the case of a notice to the Customer to such address as the Customer may have notified to the Company.

13.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected.

13.4 The Customer shall not be entitled to assign or transfer the Contract or any part of it without the prior written consent of the Company. The Company may assign or transfer the Contract or any part of it to any person, firm or company, and may sub-contract all or any of its obligations hereunder.

## 14. Jurisdiction

14.1 The Contract and these Conditions shall be governed by the laws of England and the parties agree to submit to the non-exclusive jurisdiction of the English Courts.