

# CONDITIONS OF SALE

## Standard Terms and Conditions of Trading - Customers



### 1. DEFINITIONS

“Company” means TR Fastenings Limited, but where goods or services are supplied by Trifast plc or any other subsidiary of Trifast plc, “Company” shall be a reference to such supplier either in addition to or substitution for TR Fastenings Limited (as the case may require).

### 2. APPLICATION

These standard terms and conditions apply to all sales of goods by the Company to any purchaser (“the Buyer”) and shall apply in place of and prevail over any terms or conditions contained or referred to in the Buyer’s order or in correspondence or elsewhere or implied by any previous course of dealing between the parties unless specifically agreed to in writing by an authorised representative of the Company.

### 3. PRICES AND TERMS OF PAYMENT

- 3.1 Subject to clause 3.2 below, the prices payable for the goods shall be as agreed in writing between the Company and the Buyer at the time of order and do not include any charge for handling or delivering goods where delivery does not take place at the Company’s premises. The prices quoted are exclusive of VAT. The Company shall be entitled to increase its prices or add a surcharge at any time to take into account circumstances beyond its reasonable control, including, without limitation, currency fluctuations, changes to energy, freight, duty costs or calculation methods for duty, changes to base material costs and changes in applicable law, for example, anti-dumping legislation. Where such circumstances occur, the Company shall notify the Buyer in advance and the parties shall discuss any such increase.
- 3.2. In the case of special orders by the Buyer the Company shall make a quotation which shall not constitute an offer and may be withdrawn or revised at any time prior to the Company’s acceptance of such special order. For the purposes of clause 3.1 and of this clause 3.2 acceptance shall be effective only if made on the Company’s order form duly signed by an authorised representative of the Company, quotations shall only remain valid and capable of acceptance by the Buyer for a period of 30 days from the date on which they are made.
- 3.3 Time is to be of the essence in relation to the Buyer’s payment obligations pursuant to this clause 3 and to Clause 4 below.
- 3.4. All invoices shall be paid in full within 30 days of the date of the invoice, unless otherwise agreed in writing.
- 3.5. Interest shall be payable on overdue accounts at the rate of 5% per annum above the base rate from time to time of HSBC Bank plc accruing on a daily basis from the due date for payment until receipt by the Company of the full amount, whether or not after judgment.
- 3.6. Where the parties have agreed that payment shall be made by instalments, then in the event of failure to pay any instalment on the due date the full amount of the monies outstanding under the contract shall be payable forthwith.
- 3.7. The Company reserves the right to demand security for payment and to vary its credit terms at any time before delivery.
- 3.8. In the case of export sales, unless otherwise agreed the price of the goods shall be secured by an irrevocable letter of credit satisfactory to the Company established by the Buyer immediately upon receipt of the Company’s acknowledgement of order and confirmed by a UK bank acceptable to the Company. The letter of credit shall be for the contract price inclusive of any tax or duty payable by the Buyer and delivery and other ancillary costs and shall be valid for at least 6 months or such longer period as shall have been estimated by the Company for delivery. The Company shall be entitled to payment on presentation to such UK bank of the documents specified by the Company.

### 4. DELIVERY

- 4.1. Delivery dates mentioned in any quotation, order or other document are approximate only and the time of

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delivery is not of the essence. The Company shall not be liable for any delay in delivery that is caused by an event described in clause 15.1 or the failure to provide the Company with adequate delivery instructions or any other instructions relevant to the supply of the goods.

- 4.2. The Company will arrange for delivery of the goods at the Buyer's expense to the address notified to it by the Buyer. The Company shall invoice the Buyer separately in respect of such delivery costs, and clauses 3.4 and 3.5 above shall apply to the delivery charges. If the Buyer does not so notify the Company, delivery is deemed to take place at the Company's premises and the Buyer shall make its own arrangements for collection of the goods at its own expense.
- 4.3. The Company reserves the right to make delivery by instalments, in which case each instalment shall be treated as a separate contract and a separate invoice will be tendered in respect thereof. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.
- 4.4. If the Buyer refuses or fails to take delivery of goods tendered in accordance with the contract or fails to take any action necessary on its part for delivery of the goods, including collecting the goods in accordance with clause 4.2, within 3 business days of the Company notifying the Buyer that the goods are ready, then, except where such failure or delay is caused by an event set out in clause 15.1 or the Company's failure to comply with its obligations, the goods will be deemed to have been accepted and if the Buyer has not taken delivery of or collected the goods within 10 business days of notification of the goods being ready, the Company shall be entitled to terminate the contract with immediate effect, to dispose of the goods as the Company may determine, and to recover from the Buyer any loss and additional costs incurred as a result of such refusal or failure.
- 4.5. If the Company gives notice to the Buyer of its readiness to deliver, and the Buyer requests that delivery be suspended, delayed or made by instalments then the price of the goods (if not already due and payable) shall become due and payable on the date of such notice, and the Buyer shall pay the cost of storing the goods. Risk in the goods shall pass on the date of such notice, but the Company reserves the right at its total discretion but at the Buyer's expense, to arrange to insure the goods for at least the purchase price payable to the Company.
- 4.6. The Buyer shall at its own expense promptly return to the Company any pallets used by the Company for the purpose of packaging and delivering the Buyer's goods.

## 5. RISK

Subject to Clause 4 above, risk shall pass on delivery and the Buyer agrees immediately to insure the goods for at least the purchase price payable to the Company therefore.

## 6. VARIATIONS

The Company shall be deemed to have fulfilled its contractual obligations in respect of any delivery though the quantity may be up to 10% more or less than the value specified in the contract and in such event the buyer shall pay for the actual quantity delivered.

## 7. INSPECTION

The Buyer is under a duty to inspect the goods on delivery or on collection by the Buyer or its agent as appropriate wherever it is reasonably possible to do so. Where goods are not so inspected, the Buyer must write on the delivery/collection note "Goods not examined".

## 8. TITLE

- 8.1. The goods shall remain the sole and absolute property of the Company as legal and equitable owner until such time as the Buyer shall have paid to the Company the agreed price together with the full price of any other goods supplied to the Buyer by the Company.
- 8.2. Until such payment the Buyer shall be in possession of the goods solely as bailee for the Company and in a

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fiduciary capacity and shall store the goods in such a way as to enable them to be identified as the property of the Company and maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery. The Company reserves the immediate right of re-possession of any goods to which it has retained title as aforesaid and thereafter to re-sell the same and for this purpose the Buyer hereby grants an irrevocable right and licence to the Company's servants and agents to enter upon or into all or any of its premises or vehicles with or without the Company's own vehicles during normal business hours. This right shall continue to subsist notwithstanding the termination of the contract for any reason and is without prejudice to any accrued rights of the Company thereunder or otherwise.

- 8.3. The Buyer shall be at liberty and may in the ordinary course of its business sell and deliver the goods or any product produced with the Company's goods to any third party as the Company's bailee and in a fiduciary capacity and provided that the entire proceeds of sale are held in trust for the Company and are not mingled with any other monies and shall at all times be identifiable as the Company's and such person's monies. The Buyer agrees immediately upon being so requested by the Company to assign to the Company all rights and claims which the Buyer may have against its customers arising from such sales until payment is made in full as aforesaid.
- 8.4. If the goods are destroyed by the occurrence of an insured event prior to the passing of title in accordance with Clause 8.1 above, the Buyer shall hold the proceeds of such insurance in trust for the Company separate from any other monies and at all times identifiable as the Company's monies.

### 9. THIRD PARTY RIGHTS

- 9.1. The Buyer shall indemnify the Company against any and all liabilities claims and costs incurred by or made against the Company as a direct or indirect result of the carrying out of any work required to be done on or to the goods in accordance with the requirements or specifications of the Buyer which gives rise to any infringement or alleged infringement of any rights of any third party.
- 9.2. The Company shall have no liability to the Buyer in the event of goods infringing or being alleged to infringe the rights of any third party where the Company supplies goods in accordance with a design or specification supplied by the Buyer. In the event that the goods are or may be the subject of third party rights the Company shall be obliged to transfer to the Buyer only such title as the Company may have.
- 9.3. The Buyer shall notify the Company forthwith of any claim made or action brought or threatened alleging infringement of the rights of any third party. The Company shall have control over and shall conduct any such proceedings in such manner as it shall determine. The Buyer shall provide all such reasonable assistance in connection therewith as the Company may request. The cost of any such proceedings shall be borne in such proportions as the parties shall determine.

### 10. QUALITY, SPECIFICATIONS AND INFORMATION

- 10.1. The Company warrants that on delivery, the goods shall conform in all material respects with their description and any applicable specification and be free from material defects in design, material and workmanship.
- 10.2. Subject to clause 13.2 and, provided the Company is given a reasonable opportunity of examining the goods and the Buyer (if requested) returns such goods to the Company's place of business at the Buyer's cost, the Company shall, at its option, repair or replace the defective goods or refund the price of the defective goods in full. Except as provided in this clause 10, the Company shall have no liability to the Buyer in respect of the goods' failure to comply with the warranty set out at clause 10.1.
- 10.3. Unless expressly agreed in writing by the Company all samples drawings, designs, specifications and particulars of weights and dimensions submitted by the Company are approximate only and the Company shall have no liability in respect of any deviation there from. The Company accepts no responsibility for any errors, omissions or other defects in any samples drawings, designs or specifications prepared by the Buyer or by any third party and the Company shall be indemnified by the Buyer against any and all liabilities and expenses incurred by the Company arising there from. The Company reserves the right to amend the specification of the goods if required

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by any applicable statutory or regulatory requirements.

- 10.4. In the event of any defect or alleged defect, the Company shall make its own investigations, following such investigations should there be no fault by the Company, the Company reserves the right to reduce any losses or sums payable to the Buyer.
- 10.5. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from these terms and conditions.

### 11. COMPLIANCE WITH LAWS AND POLICIES

In performing their obligations under these terms and conditions, the parties shall comply with all applicable laws, statutes, regulations and codes from time to time in force including, without limitation, the Bribery Act 2010 and the Modern Slavery Act 2015 and all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national or international in any relevant jurisdiction.

The Buyer shall conduct its business in compliance with all lawful international sanctions regimes, and that they do not engage with any sanctioned parties. As such, the Buyer must; (a) be aware of, and fully comply with, all lawful sanctions regimes affecting their business; and (b) to carry out regular checks on their business partners to ensure that they are not designated, blocked or otherwise targeted by applicable economic or trade sanctions in order to avoid doing business with sanctioned parties.

### 12. CONFIDENTIALITY

- 12.1. Each party undertakes that it shall not for a period of five years from the date of the order form, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 12.2.
- 12.2. Each party may disclose the other party's confidential information to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these terms and conditions. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12.2; and as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these terms and conditions.

### 13. LIABILITY

- 13.1. Nothing in these terms and conditions shall limit or exclude the Company's liability for: (a) death or personal injury caused by the Company's negligence; or (b) for fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; (d) defective products under the Consumer Protection Act 1987; or any other liability that cannot be excluded or limited by law.
- 13.2. Subject to clause 13.1, the Company shall not be liable to the Buyer:
  - 13.2.1. for damage to or loss of the goods or any part thereof in transit (whether the goods are carried by the Company's own transport or by a carrier on behalf of the Company), short delivery (subject as provided in clause 6 above) or defects discovered on inspection unless the Buyer notifies the Company in each case of any such claim within 7 days of receipt of the goods or the scheduled date of delivery whichever shall be the earliest (except in relation to defects which would not be reasonably apparent on inspection, in which case the Buyer shall so notify the Company within 4 months of delivery) and if following such notification the Company agrees to accept liability under this clause 13.2.1, its only obligation shall, at its option, be to replace or repair any goods so damaged or lost as appropriate and/or to refund the cost of such goods to the Buyer;

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- 13.2.2. for defects in the goods caused by fair wear and tear, abnormal conditions of storage or use or any act, neglect or default of the Buyer or of any third party.
- 13.2.3. for any product liability claim arising from a breach of a parts per million (ppm) level unless the ppm level has been agreed in writing by the Company prior to acceptance of the relevant order.
- 13.3. Subject to clause 13.1, all conditions, warranties and representations expressed or implied by statute, common law or otherwise in relation to the goods are hereby excluded and the Company shall not be liable to the Buyer for any loss of profit or any indirect or consequential loss arising under or in connection with the contract.
- 13.4. Subject to clause 13.1 and 13.2, the Company's maximum liability to the Buyer for all claims in respect of goods supplied under these terms and conditions howsoever arising (whether by contract, tort or otherwise, including negligence) or any obligation to indemnify shall not exceed the lower of the price paid or payable for all goods sold within the last twelve (12) months prior to the notification by the Buyer and or its affiliates or subsidiaries of the Company's breach or alleged breach, or £100,000 in the annual aggregate for all claims between the parties.
- 13.5. The Company's prices are determined on the basis of the limits of liability set out in this Clause. The Buyer may by written notice to the Company request the Company to agree a higher limit of liability provided insurance cover can be obtained therefore. The Company shall effect insurance up to such limit and the Buyer shall pay on demand the amount of any and all premiums. The Buyer shall disclose such information as the insurer shall require. In no case shall the Buyer be entitled to recover from the Company more than the amount received from the insurers.

## 14. HYDROGEN EMBRITTLEMENT

Where the Buyer requests that the goods are supplied to it with an electrolytic plated finish according to the Buyer's specifications, the Company shall have no liability to the Buyer in respect of damage caused to the goods by hydrogen embrittlement.

## 15. FORCE MAJEURE

- 15.1. The Company shall not be liable to the Buyer for any loss or damage which may be suffered by the Buyer as a direct or indirect result of the supply of goods by the Company being prevented, hindered, delayed by reason of circumstances or events beyond the Company's control including without limitation act of God, war, riot, fire, flood, storm, terrorist attack, pandemic, epidemic, government actions, strike, lockout, trade dispute or labour disturbance, accident, non-performance by suppliers or sub-contractors, breakdown of plant or machinery (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party), and any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition.
- 15.2. If the Company is prevented by an event of force majeure from fulfilling its contractual obligations, it shall notify the Buyer of the fact in writing within 10 days of the due date for delivery. If the event of force majeure is continuing 3 months after the date of such notice, either party may give written notice to the other terminating the contract forthwith, provided that the event of force majeure subsists at the time the notice is received by such other party.
- 15.3. The Buyer's only entitlement in such circumstances shall be to a refund in respect of any payment which it has already made on account of the price, subject to the deduction of any sums due to the Company.
- 15.4. If due to such circumstances or events the Company has insufficient stocks to meet all its commitments the Company may apportion available stocks between its customers at its sole discretion.

## 16. CANCELLATION OF ORDERS

Contracts may be cancelled only with the Company's prior written consent and subject to the Buyer indemnifying the Company in full for any losses incurred by the Company in respect of such cancellation.

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### 17. TERMINATION

If the Buyer:

- 17.1. (being an individual) is the subject of a bankruptcy application or order or commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors or if a receiving order is made against him; or
- 17.2. If (being a Company) an order is made or a resolution is passed for the winding up of the Buyer (otherwise than for the purposes of a bona fide amalgamation or reconstruction) or the Buyer enters into administration, provisional liquidation or any composition arrangement with its creditors (other than a solvent restructuring) or if a receiver or administrator is appointed over all or any of the Buyer's assets or undertaking or if circumstances arise which entitle the court or a creditor to appoint a receiver, manager or administrator or which entitle the court to make a winding up order or if the Buyer takes or suffers any similar or analogous action in consequence of debt; or
- 17.3. Commits any material breach of this or any other contract between the Company and the Buyer which is unremediable (or, being remediable, has not been remedied by the Buyer within 7 days of receiving notice from the Company requiring remedy),

then the Company may treat the contract as being at an end with immediate effect by giving the Buyer written notice.

### 18. GENERAL

- 18.1. These terms and conditions and the order form constitute the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 18.2. The Buyer shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under these terms and conditions without the prior consent in writing of an authorised representative of the Company.
- 18.3. Any notice required or permitted to be given by either party to the other under these terms and conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 18.4. No waiver by the Company of any breach of these terms and conditions by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 18.5. No variation of these terms and conditions or the order form shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 18.6. If any provision of these terms and 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 terms and conditions and the remainder of the provision in question shall not be affected thereby and, to the extent permitted by law, the parties shall re-negotiate in good faith such invalid or unenforceable provision.
- 18.7. The Company shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Company has with the Buyer.
- 18.8. The Buyer shall pay all sums that it owes to the Company under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

### 19. GOVERNING LAW

- 19.1. This contract shall be governed by and construed with English law and the Company and the Buyer irrevocably agree that the courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this contract and that accordingly any suit or proceedings arising out of or in connection with this contract shall be brought in such courts.
- 19.2. Nothing contained in this Clause 19 shall limit the right of the Company to take proceedings against the Buyer in any court of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdiction by the

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Company preclude the takings of proceedings by the Company in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.