

PURMO GROUP (UK) LTD. CONDITIONS OF SALE (FOR GOODS AND SERVICES)

1. INTERPRETATION

In these conditions of sale the following words (unless the context otherwise requires) have the following meanings:

- "Conditions"** means the conditions set out below.
- "Contract"** means any order or services agreed by Purmo Group (UK) Ltd and the Customer for the sale of any Works. "Customer" means the company, firm, body, person, individual or other party purchasing the Works.
- "Customer's Property"** means any patterns, drawings, specifications, designs, packagings and any other equipment, goods, materials, instructions or information supplied by or on behalf of the Customer (or a third party nominated by the Customer) to Purmo Group (UK) Ltd in connection with the Works.
- "Goods"** means any goods agreed in the Contract to be provided by Purmo Group (UK) Ltd to the Customer (including but not limited to the whole or any part or parts of them, any raw materials, finished or semi-finished materials, parts, spares, commodities and any materials, articles or commodities supplied in connection with the Services).
- "IPR"** means patents, trade marks and service marks, rights in designs, trade or business names, copyright (including rights in computer software), database rights and topography rights (whether or not any of these are registered or not) and/or any other such rights and all other rights or forms of protection of a similar nature or having equivalent or similar effect to any of those which may subsist anywhere in the world.
- "Services"** means any work and/or services agreed in the Contract to be provided by Purmo Group (UK) Ltd to the Customer (including but not limited to the whole or any part or parts of them).
- "Warranty Period"** means unless otherwise agreed in writing the warranty period set out in clause 72.
- "Works"** means the Goods and/or the Services (as appropriate).

Any reference to any statute or statutory provision (unless the context otherwise requires) be construed as a reference to that statute or statutory provision as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time.

The headings are for reference only and will not affect the interpretation of these Conditions.

Purmo Group (UK) Ltd reserves the right at any time without liability to correct any clerical, typographical or other similar errors or omissions made by its employees.

2. QUOTATIONS

- Any quotation (whether written or oral) is given on the basis that no contract will come into existence otherwise than in accordance with the provisions of clauses 3.5 and 3.6.
- Unless otherwise agreed in writing any quotation is valid only for a period of 30 days from its date of issue provided that Purmo Group (UK) Ltd has not previously withdrawn it by written or oral notice to the Customer.
- Each quotation clearly sets out the scope of the Works and is based on any instructions, information and specification provided by the Customer. Purmo Group (UK) Ltd reserves the right (at its absolute discretion) to amend the quotation to cover any price which may arise as a result of additional Works being requested (and agreed) or additional or incomplete instructions or information being provided.

3. APPLICATION OF TERMS

- (Subject to clause 3.4) these Conditions are the only conditions which Purmo Group (UK) Ltd is prepared to deal with the Customer and they will apply to and govern the Contract and all of Purmo Group (UK) Ltd's future supplies to the Customer.
- No terms, conditions, certificates, notices, orders, delivered with, referred to or stipulated or contained in any purchase order or other similar document delivered or sent by the Customer to Purmo Group (UK) Ltd, whether before or after the date of the Contract, will form part of the Contract.
- Any reference to the Customer's purchase order or other similar document will not be deemed to imply that any terms, conditions or notices delivered with, referred to or stipulated or contained in such purchase order or other similar document will have effect to the exclusion or amendment of these Conditions.
- Any variation to or waiver of any of the provisions of these Conditions and any representation or advice about the Works will have no effect unless it is expressly agreed in writing and is signed by a duly authorised officer of both parties.
- Each purchase order for Works issued by the Customer will be deemed to be an offer by the Customer to purchase the Works subject to these Conditions.
- No purchase order placed by the Customer will be deemed to be accepted by Purmo Group (UK) Ltd until a written acknowledgement of order is issued by Purmo Group (UK) Ltd (or if earlier) Purmo Group (UK) Ltd supplies the Works in the order catalogue brochures, price lists or other acknowledgment of order subject to the provisions set out in clause 3.4. These Conditions will apply to the Contract.
- The Customer must ensure that the content of its purchase order and any applicable specification are complete and accurate.
- Unless otherwise agreed in writing all samples, purchase orders, drawings, illustrations, descriptions, specifications, technical data, advertising and other similar information issued by Purmo Group (UK) Ltd or contained in Purmo Group (UK) Ltd catalogues, brochures, trade literature, price lists or other similar published materials are issued or published only for the purpose of giving an approximate idea of the Works described in them and will not form part of the Contract.
- Any purchase order placed by the Customer to Purmo Group (UK) Ltd in accordance with clauses 3.5 and 3.6 may only be cancelled, suspended, deferred, postponed or varied by the Customer with the prior written consent of Purmo Group (UK) Ltd and on terms that the Customer will indemnify Purmo Group (UK) Ltd against any additional costs or expenses which Purmo Group (UK) Ltd incurs as a result of any cancellation, suspension, deferral, postponement or variation of the purchase order (including but not limited to inventory and other commitments made by Purmo Group (UK) Ltd as a result of such purchase order), damages, charges and expenses incurred (directly or indirectly) by Purmo Group (UK) Ltd as a result of such cancellation, suspension, deferral, postponement or variation.

4. DELIVERY

- Any times specified or agreed by Purmo Group (UK) Ltd for the delivery of the Works are given in good faith but are an estimate only; if no time is specified or agreed by Purmo Group (UK) Ltd the delivery will take place within a reasonable time. The time for the delivery of the Works will not be of the essence of the Contract.
- Purmo Group (UK) Ltd will use its reasonable endeavours to deliver the Works within the times set out in clause 4.1. Purmo Group (UK) Ltd will not be liable for any delay or failure to deliver if the duration of the delay is not substantial or if the delay or failure is due to any circumstances beyond Purmo Group (UK) Ltd's reasonable control or of an unexpected or exceptional nature.
- (Subject to the provisions of clause 4.4) delivery will be deemed to take place and the Customer will be responsible for off loading when the Works are delivered to the Customer at such place as the parties may agree.
- If Purmo Group (UK) Ltd agrees to permit the Customer to collect the Works from Purmo Group (UK) Ltd's place of business Purmo Group (UK) Ltd will notify the Customer that the Works are ready for collection and delivery will be deemed to take place when the Customer collects the Works from Purmo Group (UK) Ltd's place of business. Purmo Group (UK) Ltd will not be liable for any delay or failure to deliver the Works within 7 working days of the issue of such notice unless otherwise agreed in writing.
- Purmo Group (UK) Ltd will use its reasonable endeavours to ensure where necessary that the Works will be packed so as to adequately protect against damage in normal conditions of transit of usual duration. Unless it has agreed to do so in writing, Purmo Group (UK) Ltd will not be liable for any damage to the Works which is caused by the Customer or any other party. Purmo Group (UK) Ltd will make its normal arrangements for the carriage of the Works. The Customer will indemnify Purmo Group (UK) Ltd against any additional costs or expenses which Purmo Group (UK) Ltd incurs as a result of any carriage or delivery of the Works which is caused by the Customer or any other party (including but not limited to inventory and other commitments made by Purmo Group (UK) Ltd as a result of such carriage or delivery). Such additional costs and/or expenses to be paid by the Customer when it is due to pay for the Works.
- Purmo Group (UK) Ltd may deliver the Works in instalments. Deliveries of further instalments may be withheld until the Works comprised in earlier instalments have been paid for in full. Default by Purmo Group (UK) Ltd (howsoever caused) in respect of one or more instalments will not entitle the Customer to terminate the Contract or to withhold payment of any further instalments.
- In the event of any delay in the delivery or collection of any Goods and/or the performance of any Services which are attributable to the Customer's actions or failure to act then:
 - (a) delivery of the Goods and/or performance of the Services will be deemed to have taken place at the time at which but for such delay or delay in performance or non-performance would have taken place and any extra costs (including but not limited to storage, insurance and redelivery costs) incurred as a result of such delay or delays will be added to the Contract price and will be payable by the Customer; and
 - (b) Purmo Group (UK) Ltd may sell or otherwise dispose of such Goods [as set forth in (a)] by giving not less than 28 days written notice of its intention to the Customer and deduct any monies payable to Purmo Group (UK) Ltd by the Customer (including but not limited to any proceeds and account to the Customer for any excess or charge the Customer for any shortfall).
- Where the Works are to be supplied from stock such supply is subject to the availability of the stock at the date of delivery.
- On delivery to the Customer all Works should be examined. Purmo Group (UK) Ltd will not be liable for any shortages in or non-delivery of the Works (even if caused by Purmo Group (UK) Ltd's negligence) unless the same is notified in writing by the Customer to Purmo Group (UK) Ltd (together with all relevant details) within 72 hours of the actual or anticipated date of delivery (as appropriate). Subject to such notice being provided Purmo Group (UK) Ltd will, if it is reasonably satisfied that any Works have not been delivered as a result of Purmo Group (UK) Ltd's fault (in its sole discretion) either arrange for redelivery or, as soon as reasonably possible, or give credit (at the pro rata Contract price) to the Customer for such Works. Any shortages in or non-delivery of part of the Works will not affect the Contract in respect of the other parts of the Works.
- If Purmo Group (UK) Ltd supplies clause 4.8 will (subject to clause 8.2) have no further liability (in contract, tort or delict (including but not limited to negligence) or otherwise) for such shortages or non delivery.
- Whilst Purmo Group (UK) Ltd will use reasonable endeavours to supply the exact quantity of the Works ordered by the Customer all quantities are approximate only and Purmo Group (UK) Ltd may supply and the Customer will accept more or less than the exact quantity ordered where such variance is within reasonable limits. A pro rata charge or allowance at the Contract price will be made to cover any such variation.
- The Customer (at its own expense) will ensure that the place where delivery of the Goods or performance of the Services is to take place is adequate and appropriate for such delivery or performance and will provide such access, assistance, equipment, facilities, protection, manual labour and information as may be required to enable Purmo Group (UK) Ltd to perform its obligations under this Contract and any relevant statutory obligations.

RISK AND OWNERSHIP

- Unless otherwise agreed in writing the Goods are at the risk of the Customer from the time of delivery or deemed delivery of such Goods to the Customer (as appropriate) or payment of the price for such Goods in accordance with these Conditions (whichever is the sooner) and loading (under clause 4.4) and off loading (under clause 4.5) will be at the Customer's risk.
- Notwithstanding that risk in the Goods will pass to the Customer in accordance with the provisions of clause 5.1 ownership of the Goods (both legal and equitable) will remain with Purmo Group (UK) Ltd (unless ownership is properly vested in some other person by the operation of any statute) until Purmo Group (UK) Ltd has received full cash or cleared funds.
 - (a) all sums due in respect of the Goods; and
 - (b) all other sums which are or which become due to Purmo Group (UK) Ltd from the Customer on any account.
- Until ownership of the Goods has passed to the Customer under clause 5.2, the Customer will:
 - (a) hold the Goods on a fiduciary basis as Purmo Group (UK) Ltd's bailee and trustee;
 - (b) keep the Goods free from any charge or lien (including but not limited to any lien in favour of a bank or other financial institution);
 - (c) store the Goods (at its cost) at Purmo Group (UK) Ltd's premises (or at other goods or materials of the Customer or any third party in a way that they remain readily identifiable as Purmo Group (UK) Ltd's property and easily accessible to Purmo Group (UK) Ltd);
 - (d) allow Purmo Group (UK) Ltd access at any reasonable time to enable Purmo Group (UK) Ltd to verify that the Customer has complied with its obligations under clause 5.2(c) above;
 - (e) not destroy, damage or obscure any identifying mark on the Goods or their packaging;
 - (f) maintain the Goods in insurable condition, insured on Purmo Group (UK) Ltd's behalf for their full price against all usual risks to the reasonable satisfaction of Purmo Group (UK) Ltd and on request produce such policy of insurance to Purmo Group (UK) Ltd;
 - (g) hold all proceeds of the insurance in clause 5.2(f) on trust for Purmo Group (UK) Ltd and not mix it with any other money or pay the proceeds into any overdraft bank account; and
 - (h) not incorporate, attach or otherwise the Goods to any real property without Purmo Group (UK) Ltd's prior written consent.
- The Customer may resell, use or otherwise dispose of the Goods before ownership has passed to it only if any such sale, use or disposition:
 - (a) will be effected in the ordinary course of the Customer's business in an arms length transaction; and
 - (b) will be a sale, use or disposition on the Customer's own behalf and the Customer will deal as principal when making such sale, use or disposition.

Once payment becomes overdue, Purmo Group (UK) Ltd may while the owner of the Goods (without prejudice to its other rights) demand the immediate return of the Goods at any time and the Customer must comply with (and bear the cost of) such demand immediately, if the Customer fails to return such Goods, Purmo Group (UK) Ltd or its successors in title, and their respective employees and agents, may exercise the rights (with or without notice) to re-take the Goods. The cost of which shall be borne by the Customer and/or may sell or otherwise deal with the Goods.

Purmo Group (UK) Ltd will be entitled to recover payment for the Goods notwithstanding that ownership has not passed to the Customer and all Purmo Group (UK) Ltd.

The Goods will be deemed sold or used in the sequence defined and severable from the others.

Each clause and sub clause in the clause 5 is separate, distinct and severable from the others.

6. PRICE AND PAYMENT

Where the Works are sold by reference to Purmo Group (UK) Ltd's published price list, the price payable for the Works will be the price as published in the price list current at the date of delivery of the Works.

Where the Works are not sold by reference to Purmo Group (UK) Ltd's published price list the price stated in the Contract is based on the cost to Purmo Group (UK) Ltd of goods, materials, fuel, power, transport, taxes, duties, services, labour and all costs of the date of Purmo Group (UK) Ltd's quotation or acknowledgement of order (whichever is earlier). If at the date of delivery or deemed delivery of the Works there has been any increase in all or any of such costs, the price payable for the Works may be increased by Purmo Group (UK) Ltd accordingly.

Quotations given in a currency other than sterling are based on the rate of exchange at the time of quoting and (unless otherwise agreed in writing between the parties) the price may be subject to revision if any different rate of exchange is ruling at the date of invoice.

Unless otherwise agreed in writing the Customer will pay for any value added tax (and any other tax or duty relating to the manufacture, transportation, sale or delivery of the Works) and any costs or charges in relation to export and/or import. Such costs and expenses will be paid by the Customer unless it is proved to the satisfaction of Purmo Group (UK) Ltd that the Customer reserves the right to charge separately for carriage in addition to its normal delivery arrangements.

Where Purmo Group (UK) Ltd agrees (at its discretion) to bring forward the date of delivery of the Works at the Customer's request, any overhead or other additional costs reasonably incurred by Purmo Group (UK) Ltd will be charged to the Customer in addition to the Contract price.

Unless otherwise agreed in writing, Purmo Group (UK) Ltd may invoice the Customer for the Works at any time after the delivery or deemed delivery of the Works or the delivery or deemed delivery of any instalment of the Works. Purmo Group (UK) Ltd may submit its invoice at any time after the Works are ready for delivery or would have been ready in the ordinary course but for the request or default on the part of the Customer.

Customers who have been granted by Purmo Group (UK) Ltd (at its sole discretion) a credit account facility will (unless otherwise agreed in writing) pay the price by the end of the month following the date of the invoice. Payment by the Customer shall be deemed to be made in full (in its sole discretion) among the terms of or without such credit account facility at any time without notice with immediate effect and on such withdrawal all amounts due or accruing to Purmo Group (UK) Ltd under the Contract will become immediately payable despite any other provision of these Conditions.

Where Purmo Group (UK) Ltd grants a credit account facility to the Customer, Purmo Group (UK) Ltd may in its absolute discretion (from time to time) set or vary any existing credit limit in relation to such credit account without notice.

Where the Customer has placed a purchase order which exceeds the current credit limit determined in accordance with clause 6.8 (even where Purmo Group (UK) Ltd has accepted such purchase order in accordance with these Conditions) Purmo Group (UK) Ltd may without any liability to the Customer defer or refuse to deliver the Works until such time as the Customer has paid the balance of the order. Payment of the balance of the order may be made by the Customer or by the default of the Customer that ordered until payment has been received from the Customer which brings the whole of the Customer's current orders within such credit limit.

Customers who have not been granted a credit account facility will (unless otherwise agreed in writing) pay the price by the end of the month following the date of the invoice.

No payment will be deemed to have been received until Purmo Group (UK) Ltd has received cleared funds.

Time for payment will be of the essence of the Contract.

All payments payable to Purmo Group (UK) Ltd under the Contract will become due immediately on termination of this Contract notwithstanding any other provision of these Conditions.

The Customer will make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid claim or defence resulting in an amount equal to such deduction to be paid by Purmo Group (UK) Ltd to the Customer.

Purmo Group (UK) Ltd may (but will not be obliged to) at any time or times without notice to the Customer require the Customer to provide security for the performance of any liability of Purmo Group (UK) Ltd to the Customer (in either case howsoever arising and whether such liability is present, future, liquidated or unliquidated). Any exercise by Purmo Group (UK) Ltd of its rights under this clause will be without prejudice to any other rights or remedies available to Purmo Group (UK) Ltd under this Contract or otherwise.

If the Customer delays or fails to pay Purmo Group (UK) Ltd any sum due pursuant to the Contract the Customer will be liable to pay interest to Purmo Group (UK) Ltd on such sum from the due date of payment at an annual rate of 3% above the base rate of Barclays Bank Plc from the time of time accruing on a daily basis until payment is made in full (whether before or after any judgement). Purmo Group (UK) Ltd reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

Without prejudice to the provision of clause 6.16 if the Customer delays or fails or Purmo Group (UK) Ltd reasonably believes that the Customer will delay or fail to pay for the Works or any other work under any contract between the Customer and Purmo Group (UK) Ltd:

- (a) demand payment of all outstanding balances whether due or not under this Contract or any other contract between the Customer and Purmo Group (UK) Ltd;
- (b) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
- (c) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
- (d) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
- (e) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
- (f) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
- (g) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
- (h) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
- (i) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
- (j) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
- (k) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
- (l) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
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- (w) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
- (x) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
- (y) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
- (z) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
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- (ar) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
- (as) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
- (at) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
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- (aw) terminate any performance by the Customer of any of the Works or any other work supplied under any contract between the Customer and Purmo Group (UK) Ltd (as if the Customer had not made any such contract) and/or
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- (bd) suspend any further performance by Purmo Group (UK) Ltd of the Contract or any other contract between the Customer and Purmo Group (UK) Ltd until overdue sums have been paid; and/or
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