



## Terms and Conditions

### Application and Entire Agreement

1. These Terms and Conditions will apply to the purchase of the goods detailed in our quotation and/or sales documentation (**Goods**) by the buyer (**you or customer**) from Fanela Ltd (**we or us or supplier or seller**), a company registered in England and Wales under registration number 4049871 and registered address of Thomas Alexander, 590 Green Lanes, Palmers Green, London, N13 5RY
2. These Terms and Conditions will be deemed to have been accepted by you when you accept them or the quotation or from the sales order acknowledgement or from the date of the delivery of the goods (whichever happens earlier) and will constitute the entire agreement between us and you.
3. These Terms and Conditions and the quotation (together, the contract) apply to the purchase and sale of any goods between us and you, to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### Interpretation

4. A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.
5. The headings in these Terms and Conditions are for convenience only and will not affect their interpretation.
6. Words imparting the singular number include the plural and vice versa.

### Goods

7. The description of the goods is set out in our sales documentation unless expressly changed in our quotation. In accepting the quotation, you acknowledge that you have not relied upon any statement, promise or other representations about the Goods by us. Descriptions of the Goods set out in our sales documentation are intended as guide only.
8. We can make any changes to the specification of the Goods which are required to conform to any applicable safety or other statutory regulatory requirements.

### Price

9. The Price (**Price**) of the goods is set out in our quotation current at the date of your order or such other price as we may agree in writing and remains valid for a period of 30 calendar days from the current date of the sales quotation document.
10. If the costs of the goods to us increase, exceeding the 30 calendar days, due to any factor beyond our control including, but not limited to, material costs, labour costs, alteration of exchange rates or duties, or changes to delivery rates, we can increase the price prior to delivery.
11. Any increase in the Price under clause 10 will only take place after we have informed you of any such increase.
12. You may be entitled to discounts. Any and all discounts will be at our discretion.
13. The price is of sales of services and goods.
14. The Price is of fees for packaging and delivery.
15. The price is of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

### Cancellation and Alteration

16. Details of the Goods as described in the clause above (Goods) and set out in our sales documentation are subject to alteration without notice and are not a contractual offer to sell the Goods which is capable of acceptance.
17. The quotation (including any non-standard price negotiated in accordance with the clause on Price (above) is valid for a period of 30 days only from the date shown in it unless expressly withdrawn by us at an earlier time.
18. Either of us can cancel the order for any reason prior to your acceptance (or rejection) of the quotation.
19. You can cancel the order for any reason prior to the date of the sales order confirmation.
20. We reserve the right to obtain payment in part or in full for any cost of Goods already incurred if you cancel the order after the dates of the sales order confirmation.
21. We can cancel the order for any reason prior to the despatch of the Goods.

### Payment

22. We will invoice you for the Price either:
  - a) On or at any time after delivery of the Goods; or
  - b) Where the Goods are to be collected by you or where you wrongfully do not take delivery of the Goods, at any time after we have notified you that the Goods are ready for collection or we have attempted to deliver them
  - c) Prior to the supply of Goods where a "Pro-forma" agreement is made and accepted by you and us.
23. You must pay the Price within 30 days of the date of our invoice or otherwise according to any credit terms agreed between us.
24. You must make payment even if delivery has not taken place and/or that the title in the Goods has not passed to you.
25. If you do not pay within the period set out above, we will suspend any further deliveries to you and without limiting any of our other rights or remedies for statutory interest, charge you interest at the rate of 5% per annum above the base rate of the Bank of England from time to time on the amount outstanding until you pay in full.
26. Time for payment will be of the essence of the contract between us and you.
27. All payments must be made in 30 days unless otherwise agreed in writing between us.
28. Both parties must pay all amounts due under these Terms and Conditions in full without any deduction or withholding except as required by law and neither party is entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

### Delivery

29. We will arrange for the delivery of the Goods to the address(s) specified in the quotation, or your order or to other location(S) we agree in writing.
30. If you do not specify a delivery address or if we both agree, you must collect the Goods from our premises.
31. Subject to the specific terms of any special delivery service, delivery can take place at any time of the day and must be accepted at any time between 8 am and 8 pm.

32. If you do not take delivery of the Goods we may, at our discretion and without prejudice to any other rights:
  - a) Store or arrange for the storage of the Goods and will charge you for all associated costs and expenses including, but not limited to, transportation, storage and insurance; and/or
  - b) Make arrangements for the re-delivery of the Goods and will charge you for the costs of such redelivery; and/or
  - c) after 20 business days, resell or otherwise dispose of part or all of the Goods and charge you for any shortfall below the price of the Goods.
33. If redelivery is not possible as set out above, you must collect the Goods from our premises and will be notified of this. We can charge you for all associated costs including, but not limited to, storage and insurance.
34. We will endeavour to meet all initial agreed delivery dates confirmed in the sales order confirmation. However, we will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond our control or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
35. We will not be liable for any delay in delivery where you have failed to approve any artwork within any agreed timescale or by said required date as stated by us.
36. We can deliver the Goods by instalments, which will be invoiced and paid for separately. Each instalment is a separate contract. Any delay in delivery or defect in an instalment will not entitle you to cancel any other instalment.

#### **Inspection and acceptance of Goods**

37. You or the customer or your nominated person of delivery, as agreed by you in the sales documentation must inspect the Goods on delivery or collection.
38. If you identify any damages or shortages, you must inform us in writing within 7 days of delivery, providing details.
39. Other than by agreement, we will only accept returned Goods if we are satisfied that those Goods are defective and if required, have carried out an inspection.
40. Subject to your compliance with this clause and/or our agreement you may return the Goods and we will, as appropriate, repair, or replace, or refund the Goods or part of therein.
41. We will be under no liability or further obligation in relation to the Goods if:
  - a) You fail to provide notice set above; and/or
  - b) You make any further use of such Goods after giving notice under clause 38; and/or
  - c) The defect arises from not following the agreed care instructions detailed on or accompanied with the Goods.
  - d) The defect arises because you did not follow our verbal or written instructions about the storage, commissioning, installation, use and maintenance of the Goods; and or
  - e) The defect arises from normal wear and tear of the Goods; and/or
  - f) The defect arises from misuse or alterations of the Goods, negligence, wilful damage or any other act by you, your employees or agents or third parties.
42. Your bear the risk and cost of returning the Goods to us.
43. Acceptance of the goods will be deemed to be upon inspection of them by you and in any event within 7 days after delivery.

#### **Risk and title**

44. The risk in the Goods will pass to you on completion of delivery.
45. Title to the Goods will not pass to you until we have received payment in full (in cash or cleared funds) for; (a) the Goods and/or (b) any other Goods or services that we have supplied to you in respect of which payment has become due.
46. Until title to the Goods has passed to you, you must (a) hold the Goods on a fiduciary basis as our bailee; and/or (b) store the goods separately and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and/or (c) keep the Goods in satisfactory condition and keep them insured against all risks.
47. As long as the Goods have not been resold, or irreversibly incorporated into another product, or have been branded or marketed in any way, and without limiting any other right or remedy we may have, we can at any time ask you to deliver up the goods, and if you fail to do so promptly, we reserve the right to seek lawful remedies to recover the Goods sold.

#### **Termination**

48. We can terminate the sale of Goods under the contract where:
  - a) You commit a material breach of your obligations under these Terms and Conditions.
  - b) You, or the customer, are or become or, in our reasonable opinion, are about to become the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors.
  - c) You, or the customer, enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with your creditors; or
  - d) You convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, administrator, manager administrator or administrative receiver appointed in respect of your assets or undertakings or any part thereof, any documents are filed with the court for the appointment of an administrator, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of any of your affairs or for the granting of an administration order, or any proceedings are commenced relating to your insolvency or possible insolvency.

#### **Limitation of liability**

49. Our liability under the Contract, and in breach of statutory duty, and in tort, misrepresentation or otherwise will be limited to this section.
50. Subject to the clauses above on **Inspection and Acceptance** and **Risk and Title**, all warranties, conditions or other terms implied by statute or common law (save for those implied by Section 12 of the Sales of Goods Act 1979) are excluded to the fullest extent permitted by law.
51. If we do not deliver the Goods, our liability is limited, subject to the clause below, to the costs and expense incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
52. Our total liability will not, in any circumstances, exceed the total amount of the Price payable by you.
53. We will not be liable (whether caused by our employees, agents or otherwise) in connection with the Goods, for:
  - a) Any indirect (including goods supplied by you), special or consequential loss, damage, costs or expenses; and/or
  - b) Any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; and/or
  - c) Any failure to perform any of our obligations if such delay or failure is due to any case beyond our reasonable control; and/or
  - d) Any losses caused directly or indirectly by any failure or breach by you in relation to your obligations; and/or
  - e) Any loss relating to the choice of the Goods and how they will meet your purpose or use by you of the Goods supplied.
54. The exclusions of liability contained within this clause will not exclude or limit our liability for death or personal injury caused by our negligence; or for any matter for which it would be illegal for us to exclude or limit our liability; and for fraud or fraudulent misrepresentation.

## Communications

55. All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).
56. Notices will be deemed to have been duly given:
  - a) When delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient.
  - b) When sent, if transmitted by email and a successful transmission report or return receipt is generated.
  - c) On the fifth business day following mailing, if mailed by, national ordinary mail; or
  - d) On the tenth business day following mailing, if mailed by airmail.
57. All notices under these Terms and Conditions must be addressed to the most recent address or email address notified to the other party.

## Data Protection

58. When providing the Goods to the buyer, the Seller may gain access to and/or acquire the ability to transfer, store or process personal data of employees of the Buyer.
59. The parties agree that where such processing of personal data takes place, the Buyer shall be 'data controller' and the Seller shall be the 'data processor' as defined in the General Data Protection Regulation (**GDPR**) as may be amended, extended and/or re-enacted from time to time.
60. For the avoidance of doubt, 'Personal Data', 'Processing', 'Data Controller', 'Data Processor', 'Data Subject shall have the same meaning as in the GDPR.
61. The seller shall not disclose Personal Data to any third parties other than employees, directors, agents, subcontractors or advisors on a strict "need to know" basis and only under the same (or more extensive) conditions as set out in these Terms and Conditions or to the extent required by applicable legislation and/or regulations.
62. The seller shall implement and maintain technical and organisational security measures as are required to personal Data Processed by the Seller on behalf of the Buyer. Further information about the Seller's approach to data protection are specified in its Data Protection Policy, which can be found on the company website. For any enquiries or complaints regarding data privacy, you can email 'ops@fanela.co.uk'.

## Circumstances beyond the control of either party

63. Neither party shall be liable for any future or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.

## No waiver

64. No waiver by us of any breach of these Terms and Conditions by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

## Severance

65. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that/those provisions shall be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

## Law and jurisdiction

66. This Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including noncontractual disputes and claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.