

# FOUNTAIN DESIGN LTD: TERMS AND CONDITIONS OF SALE

## PLEASE READ CAREFULLY.

### 1. INTERPRETATION

In these terms and conditions:

<b>COMPANY</b>	Fountain Design Limited (registered in England no. 4535456) having its registered office at Unit 15, Furnace Industrial Estate, Shildon, County Durham DL4 1QB.
<b>Buyer</b>	any person, firm or company whose order is accepted by the COMPANY for the sale and supply of Goods or Services.
<b>Contract</b>	a legally binding agreement between the COMPANY and the Buyer for the sale and supply of Goods or Services.
<b>Goods</b>	any goods that the COMPANY supplies to the Buyer under an agreed Contract.
<b>Services</b>	any services the COMPANY supplies to the Buyer under an agreed Contract.
<b>Terms and Conditions</b>	the standard Terms and Conditions of sale and supply as specified in this document.

### 2. APPLICATION AND FORMATION

- 2.1. Any Contract offered by the COMPANY will be subject exclusively to these Terms and Conditions and there will be no addition, alteration, substitution or waiver of these Terms and Conditions without the written agreement of the COMPANY.
- 2.2. Each order or acceptance of quotation for sale or supply of Goods or Services, will be deemed as an agreement of the Buyer to buy under these Terms and Conditions. The Contract is formed when the COMPANY accepts an order. No Contract will come into existence without the receipt of a valid purchase order from the Buyer.
- 2.3. Any quotation supplied by the COMPANY will be valid for a period of 30 days from the date of generation, unless withdrawn or extended at the COMPANY's discretion.
- 2.4. On acceptance of the quotation by raising a purchase order against said quote, this is deemed to constitute a legally binding Contract between the Buyer and the COMPANY and the Buyer will be bound by these Terms and Conditions.
- 2.5. These Terms and Conditions will not prejudice or influence any condition or warranty either expressed or implied, or any legal remedy to which the COMPANY is entitled to in relation to the sale or supply of Goods and/or the Services.

### 3. PRICE & PAYMENT

- 3.1. The price for the Goods and/or Services will be the price as stated in a valid quotation, subject to Condition 2.3. The COMPANY can not guarantee to match pricing on alterations or additions of the original quote, therefore, the COMPANY reserves the right to re-quote for all the required Goods and/or Services.
- 3.2. Unless the COMPANY states otherwise, all prices are exclusive of delivery costs, VAT and any other applicable sales tax or duty.
- 3.3. Unless the COMPANY states otherwise, payment terms are nett due 30 days from date of invoice.
- 3.4. The COMPANY reserves the right to request a percentage of the total project cost as a deposit with order dependent upon the overall project cost and associated risks.
- 3.5. If any sum payable under a Contract is not paid when due, the COMPANY will without prejudice suspend deliveries of the Goods or performance of Services until the outstanding balance has been received in full.

### 4. DELIVERY

- 4.1. The Goods and/or Services shall be delivered or performed at the location stated on the Buyers purchase order, unless otherwise requested by the Buyer and agreed by the COMPANY in writing.
- 4.2. If the COMPANY can not deliver Goods as scheduled in the original agreement because of a delay or hold-up on the Buyers behalf, the COMPANY reserves the right to charge a minimal fee to cover storage, insurance and other associated costs. In this instance charges will be applied within 24 hours of the passing of the original scheduled date and will cumulate on a daily basis until such time as the delivery can be made.
- 4.3. The COMPANY will endeavour to make every reasonable effort to deliver or perform each of the Buyer's orders for Goods and/or Services within a requested timeframe, however the COMPANY does reserve the right to deliver within what is considered a reasonable time period if the situation is influenced by circumstances outside of the COMPANY's control or contemplation. The COMPANY may exercise this right in the following circumstances:
  - 4.3.1. In the event of Goods and/or Services, purchased by the COMPANY specifically for a project, being delayed by the supplier or manufacturer.
  - 4.3.2. In the event of Goods and/or Services, purchased by the Buyer specifically for a project, being delayed in their delivery to the COMPANY.
  - 4.3.3. In the event of internal machine breakdown, shutdown or unscheduled maintenance.
  - 4.3.4. In the event of acts of god, war, terrorism, industrial disputes, explosion and national emergencies, the COMPANY will not be liable to the Buyer for any failure or delay in the Contract. The COMPANY will be entitled to a reasonable extension of time for performing such obligations.

### 5. TITLE & RISK

- 5.1. All goods will remain the property of the COMPANY until full payment for Goods and/or Services has been made.
- 5.2. Risk in the Goods will pass to the Buyer upon delivery.

### 6. LIABILITY OF THE COMPANY

- 6.1. The COMPANY will replace free of charge, any goods which the COMPANY identifies as faulty due to defects in material, workmanship or design (other than a design made, furnished or specified by the Buyer) within a period of 6 months from the date of delivery of Goods. This obligation will not apply where:
  - 6.1.1. Instructions for the safe use and/or storage issued by the COMPANY have been knowingly or unknowingly abused, tampered with or not complied with.
  - 6.1.2. The Buyer has failed to notify the COMPANY of any suspected or actual defect within 14 days of delivery of the Goods or performance of Services where the defect should be apparent after reasonable inspection. In a situation where the defect was not apparent at the time of reasonable inspection or where a significant fault has occurred due to any such defect, the COMPANY will make reasonable efforts to repair or replace up to 6 months from the date of delivery.
- 6.2. The COMPANY will refund the cost of the return carriage for any goods identified as defective or damaged.
- 6.3. The COMPANY will, at its own expense, cover the cost of the carriage to send a replacement to the Buyer.
- 6.4. The COMPANY does not exclude its liability (if any) to the Buyer for any matter where it would be illegal for the COMPANY to exclude its liability concerning consumer rights as governed by law.

### 7. INTELLECTUAL PROPERTY

- 7.1. Any intellectual property rights created, developed or discovered by the COMPANY throughout the provision of Goods and/or Services belong to the COMPANY absolutely.
- 7.2. The Buyer shall notify the COMPANY immediately if it becomes apparent that the Contract for Goods and/or Services would infringe on any third party intellectual property rights.
- 7.3. If at any time the Buyer (either alone or with another person) creates intellectual property related to the subject matter of the Contract, the Buyer must treat all intellectual property and supporting information as confidential to the COMPANY and shall at the request of the COMPANY disclose all such works promptly.
- 7.4. The Buyer hereby irrevocably and unconditionally waives, in favour of the COMPANY, any and all moral rights conferred on the Buyer by virtue of the Copyright Designs and Patents Act 1988 for any design or copyright work referred to in condition 7.3.

### 8. TERMINATION

- 8.1. The COMPANY reserves the right to cancel the Contract by written notice if it becomes apparent that the Buyer has either breached the Contract, or is entering into insolvency or bankruptcy. Failure to pay due sums for the sale or supply of Goods and/or Services is a breach of the Contract.