

## CONDITIONS OF SALE

THESE CONDITIONS APPLY TO THE CONTRACT BETWEEN THE PURCHASER AND TANGRAM. READ THEM CAREFULLY TO ENSURE THE CONDITIONS ARE ACCEPTABLE. THESE CONDITIONS ARE NOT INTENDED TO RESTRICT OR AFFECT ANY RIGHTS UNDER LAW WHICH ARE GIVEN TO CONSUMERS.

### 1. DEFINITIONS

In these Conditions, the following definitions apply:

“**Conditions**” means these conditions of sale;

“**Confirmation**” means Tangram’s written acknowledgement of the Purchaser’s Order incorporating these Conditions;

“**Contract**” means the contract between Tangram and the Purchaser;

“**Deposit**” means the sum specified within the Confirmation and/or Invoice;

“**Force Majeure Event**” has the meaning given to it in clause 13;

“**Goods**” means the goods to be supplied and, where applicable, installed by Tangram under the Contract as specified in Tangram’s Confirmation and/or Invoice;

“**Invoice**” means Tangram’s invoice for the Goods;

“**Order**” means the Purchaser’s order (whether written or oral) for the Goods;

“**Premises**” means the property/area where the Goods are to be delivered and/or installed as specified in Tangram’s Confirmation and/or Invoice;

“**Purchaser**” means the person, firm, company or statutory authority contracting with Tangram for the supply of the Goods;

“**Specification**” means any specification for the Goods that is supplied to Tangram by the Purchaser (or vice versa) as confirmed in the Confirmation or the Invoice (whichever shall first be issued by Tangram);

“**Tangram**” means Tangram Furnishers Limited (Registered Number SC240957) having its Registered Office at 33/37 Jeffrey Street, Edinburgh, EH1 1DH (“Tangram”).

### 2. CONTRACT

2.1 No Contract shall be made until the Order is confirmed by a Confirmation or Invoice (whichever shall first be issued by Tangram) and that Confirmation or Invoice (as the case may be) and these Conditions shall apply to the Contract to the exclusion of any other terms or conditions that (i) the Purchaser seeks to impose or incorporate whether in the Order or otherwise, or (ii) might otherwise be implied by trade, custom, practice or any course of dealing.

2.2 The Contract shall constitute the entire agreement between the parties. The Purchaser acknowledges that it has not relied on any statement, promise or representation made by or on behalf of Tangram which is not set out in the Contract. Any samples, drawings, descriptive matter or advertising issued by Tangram or its suppliers and any descriptions or illustrations contained in catalogues or brochures issued or published by Tangram or its suppliers in paper or electronic form are illustrative only and shall not form part of the Contract.

### 3. PRICE

3.1 The price of the Goods (“the Price”) shall be as set out in the Confirmation and/or the Invoice.

3.2 Tangram may, by written notice to the Purchaser prior to the collection or delivery of the Goods, revise or increase the Price (and any delivery, installation or other charges) but only to reflect any changes due to:

3.2.1 any factor beyond Tangram’s control (including foreign exchange rate fluctuations, increases in taxes or duties, increases in any insurance charges, and increases in the prices charged to Tangram by suppliers, whether on account of labour, materials, manufacturing costs or otherwise);

3.2.2 any request by the Purchaser to change the delivery date(s), quantity or type of Goods ordered, or the Specification; or

3.2.3 any clerical, administrative or arithmetical error in the Contract; or

3.2.4 any delay caused by any instructions of the Purchaser or the failure of the Purchaser to give Tangram proper information or instructions.

3.3 The Price is exclusive of value added tax (“VAT”) and any delivery or installation charges.

### 4. PAYMENT

4.1 Payment, including the payment of any Deposit to account of the Price, will be due as stated in the Confirmation and/or Invoice. If nothing about payment date(s) is so stated, the outstanding balance of the Price (including any revision of the Price in accordance with condition 3.2) will be due within seven days of receipt of the notification by Tangram under clause 5.2, and, in any event, payment of the Price must be made prior to collection or delivery of the Goods or, in the case of collection or delivery in instalments, payment of the relevant part of the Price attributable to the Goods to be so collected or delivered will be made prior to each collection or delivery. Unless caused by Tangram, subsequent changes of the date upon which the Goods are to be delivered or collected shall not change the due date for payment of any part of the Price.

4.2 Any discounts or other reductions in the Price granted by Tangram are subject to the Purchaser’s compliance with its obligations under the Contract and may be withdrawn by Tangram by notice to the Purchaser if the Purchaser breaches any such obligation.

4.3 Time of payment shall be of the essence and payment shall not be deemed to have been made until Tangram has received cleared funds.

4.4 Without limiting its rights in any way, Tangram reserves the right to suspend deliveries and demand immediate payment for all Goods which have been ordered if any payment under any contract between the Purchaser, or any person associated with the Purchaser, and Tangram becomes overdue.

4.5 Tangram may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Purchaser against any amount payable by Tangram to the Purchaser.

### 5. AVAILABILITY, DELIVERY AND INSTALLATION

5.1 Delivery of the Goods is completed when the Goods are collected by the Purchaser or, if delivery of the Goods to any Premises is provided for in the Confirmation or Invoice, when the Goods are delivered to those Premises.

5.2 The Purchaser will be bound to collect or accept delivery and, where applicable, installation of the Goods when Tangram notifies the Purchaser that the Goods are available.

5.3 If the Purchaser fails to collect or accept delivery and, where applicable, installation of the Goods after Tangram has provided notice under condition 5.2 (except where such failure or delay is caused by a Force Majeure Event or Tangram’s failure to comply with its obligations under the Contract), (a) delivery of the Goods shall be deemed to have taken place; and (b) Tangram shall be entitled to store the Goods and charge the Purchaser a reasonable daily storage fee and all related costs and expenses (including insurance and additional delivery costs).

5.4 Tangram may resell or otherwise dispose of part or all of the Goods if the Purchaser has not accepted delivery and/or installation within 14 days of Tangram providing notification under condition 5.2.

5.5 Tangram may deliver the Goods by instalments. Each instalment shall constitute a separate Contract and any shortage, damage or defect in any instalment shall not entitle the Purchaser to cancel any other instalment or to withhold any payment due in respect of any other instalment.

5.6 Time of delivery or installation of the Goods or of making the Goods available for collection (as the case may be) is not of the essence and shall not be made of the essence by notice. In any event, Tangram shall not be liable for any delay in delivery of the Goods or installation of the Goods or in making the Goods available for collection (as the case may be) that is caused by a Force Majeure Event or the Purchaser’s failure to provide Tangram with adequate delivery or collection instructions or any instructions that are relevant to the supply and/or installation of the Goods.

5.7 If Tangram fails to deliver or install the Goods or to make the Goods available for collection (as the case may be), its liability shall be limited to the losses, costs and expenses incurred by the Purchaser in obtaining replacement Goods of similar description and quality in the cheapest market available, less the price of the Goods.

5.8 Delivery and installation charges will, unless expressly set out in the Confirmation or Invoice, be calculated on a time, quantity and distance basis. Delivery, unpacking, assembly and installation of the Goods are not included in the Price unless expressly provided for on Tangram’s Confirmation or Invoice.

5.9 Where the Confirmation or Invoice provides that the Goods are to be installed by Tangram, Tangram:

5.9.1 reserves the right to engage such sub-contractors as it deems fit;

5.9.2 may suspend, make changes to or cancel the installation of the Goods if, prior to or during the installation of the Goods, Tangram (acting reasonably) considers the Premises are unsuitable and/or not ready for the installation of the Goods.

### 6. PURCHASER’S OBLIGATIONS

6.1 The Purchaser shall ensure that the terms of the Order and any information it provides in the Specification are complete and accurate.

6.2 On collection or delivery or completion of the installation (as the case may be) the Purchaser shall unpack and inspect the Goods and notify Tangram in writing of any shortage in quantity, damage or defect within 3 working days (a “working day” in the Contract meaning any day that is not a Saturday or a Sunday) of such collection, delivery or installation and, failing any such notification, the Purchaser shall be deemed to have accepted the Goods for all purposes. In the case of (i) latent defects; or (ii) actual delivery taking place subsequent to a deemed delivery under clause 5.3, the period of 3 working days shall commence, as the case may be, when the latent defect is discovered or ought to have been discovered; or on the date of the actual delivery.

6.3 Where Tangram is to install the Goods, the Purchaser shall use its best endeavours to ensure that, in good time prior to such installation:

6.3.1 Tangram is provided with such information and materials as Tangram may reasonably require in order to carry out the installation, and that the information is accurate in all material respects;

6.3.2 any known defects or weaknesses in those parts of the Premises where the Goods are to be installed are brought to Tangram’s attention;

6.3.3 the Purchaser’s Premises are properly prepared for Tangram to obtain access and carry out the installation of the Goods; and

6.3.4 any necessary licenses, permissions and consents which may be required for the installation are obtained and maintained;

6.4 The Purchaser will co-operate in assessing and minimising any health and safety hazards to a reasonable level and will notify Tangram of all such hazards in relation to the Contract prior to delivery of the Goods.

6.5 If Tangram’s performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Purchaser or failure by the Purchaser to perform any of its relevant obligations (“Purchaser Default”):

6.5.1 Tangram shall, without limiting its other rights or remedies, have the right to suspend performance of its obligations under the Contract until the Purchaser remedies the Purchaser Default;

6.5.2 Tangram shall not be liable for any costs or losses incurred by the Purchaser arising directly or indirectly from any Purchaser Default; and

6.5.3 the Purchaser shall reimburse Tangram on written demand for any costs or losses incurred by Tangram arising directly or indirectly from any Purchaser Default.

### 7. SUITABILITY OF PREMISES

For the avoidance of doubt, Tangram are not electricians, builders, joiners, plumbers, surveyors, architects or engineers and any inspection or measurement carried out by Tangram or its sub-contractors at the Premises, while carried out in good faith, does not imply any warranty on the part of Tangram or its sub-contractors that the Premises are free from defect or structurally suitable to accept the installation of the Goods. If the Purchaser requires the Premises to be surveyed or inspected to determine whether there are any hidden defects or problems, the Purchaser should instruct an independent surveyor or other relevant professional as appropriate.

### 8. TITLE & RISK

8.1 Title to the Goods shall not pass to the Purchaser until Tangram has received payment in full (in cash or cleared funds) for:

8.1.1 the Goods; and

8.1.2 all other sums which are or which become due to Tangram from the Purchaser on any account or in terms of any contract with Tangram.

8.2 Until title to the Goods has passed to the Purchaser, the Purchaser shall not do or permit to be done any act or thing which might prejudice Tangram’s rights in and to the Goods.

8.3 The Purchaser’s right to possession of the Goods shall terminate immediately if Tangram receives information which, in Tangram’s absolute discretion, suggests that the Purchaser is unlikely to be able to pay any of its debts including any sums due to Tangram whether under the Contract or otherwise and, upon notice to the Purchaser, Tangram shall be entitled to enter any Premises and any other property occupied or used by the Purchaser to recover possession of the Goods.

8.4 Tangram shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed to the Purchaser and, on termination of the Contract, howsoever caused, Tangram’s rights contained in this clause 8 shall remain in effect.

8.5 Risk shall pass to the Purchaser on collection, delivery or attempted delivery of the Goods (or, in the case of delivery by instalments, on delivery or attempted delivery of the Goods comprised in that instalment).

### 9. TERMINATION

9.1 Without limiting its other rights or remedies, Tangram may terminate the Contract at any point by giving written notice to the Purchaser if:

9.1.1 the Purchaser is in breach of any term (whether express or implied) of the Contract or any other contract or agreement with Tangram; or

9.1.2 the Purchaser’s right to possession of the Goods has terminated; or

9.1.3 Tangram is unable to or hindered from performing its obligations as a result of circumstances beyond its control.

9.2 The Purchaser may terminate the Contract prior to collection or delivery of the Goods if Tangram is in material breach of any of its obligations to the Purchaser under the Contract and, if the breach is capable of remedy, Tangram has failed to remedy such breach within 15 working days of receipt by Tangram of a notice specifying the alleged breach and requiring its remedy.

9.3 In the event of any dispute between Tangram and the Purchaser, Tangram will be entitled to retain any Deposit paid by the Purchaser to Tangram under the Contract or under any other contract until the matter in dispute is resolved by agreement between the parties or by the order of a court of competent jurisdiction.

### 10. INDEMNITY

The Purchaser shall indemnify Tangram against all liabilities, losses, damages, costs and expenses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional, legal and/or management costs and expenses) incurred by Tangram as a direct or indirect result of any breach by the Purchaser of any terms (express or implied) of any Contract.

### 11. TANGRAM WARRANTY

11.1 Subject to the Purchaser complying with its obligations under the Contract and the other provisions in the Contract, Tangram warrants that on collection, delivery and/or installation (as the case may be) of the Goods, and for a period of 12 months thereafter, the Goods shall:

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

11.1.2 be reasonably fit for purpose; and

11.1.3 be reasonably fit for any particular purpose provided that before the Contract is made (i) the Purchaser made that purpose known to Tangram in writing and (ii) Tangram confirmed in writing that using the Goods for that purpose is reasonable.

11.2 Tangram shall not be liable for a breach of any of the warranties in condition 11.1 unless:

11.2.1 the Purchaser gives written notice of the defect to Tangram within 3 working days of the time when the Purchaser discovers or ought to have discovered the defect; and

11.2.2 Tangram is given a reasonable opportunity after receiving the notice of examining such Goods and the Purchaser (if asked by Tangram) returns such Goods to Tangram’s place of business for the examination to take place there.

11.3 Tangram shall not be liable for a breach of any of the warranties in conditions 11.1 to the extent that:

11.3.1 the Purchaser makes any further use of such Goods after giving such notice and that further use causes additional damage or makes any repair or replacement more difficult; or

11.3.2 the defect arises because the Purchaser failed to follow Tangram or Tangram’s sub-contractor’s or supplier’s oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are no such instructions) good trade practice; or

11.3.3 the Purchaser alters or repairs such Goods without the prior written consent of Tangram and that alteration or repair has caused the defect.

11.4 Subject to conditions 11.2 and 11.3, if any of the Goods do not conform with any of the warranties in conditions 11.1, Tangram shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods (or the defective part) at the pro rata Contract price provided that, if Tangram so requests, the Purchaser shall return the Goods or the part of such Goods which is defective to Tangram.

11.5 Minor variations in the colour, surface and finish of natural materials such as wood shall not be defects or breaches of the Contract.

### 12. EXCLUSION AND LIMITATION OF LIABILITY

12.1 Nothing in these Conditions shall limit or exclude Tangram’s liability for:

12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

12.1.2 fraud or fraudulent misrepresentation; or

12.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or

12.1.4 defective products under the Consumer Protection Act 1987.

12.2 Subject to condition 12.1:

12.2.1 Tangram shall not be liable to the Purchaser, whether in contract, delict (including negligence), breach of statutory duty or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract; and

12.2.2 Tangram’s total liability to the Purchaser in respect of all other losses arising under or in connection with the Contract, whether in contract, delict (including negligence), breach of statutory duty, or otherwise shall not exceed 50% of the price of the Goods.

### 13. FORCE MAJEURE EVENT

13.1 Tangram shall not be liable to the Purchaser as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event. A Force Majeure Event means any act, event, non-occurrence, omission or accident beyond the reasonable control of Tangram including but not limited to strikes, lock outs or other industrial action (whether of Tangram’s employees or the employees of any suppliers, carriers and subcontractors); civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war; fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster; impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport; or impossibility of the use of public or private telecommunication networks.

13.2 If the Force Majeure Event prevents Tangram from providing any of its obligations under the Contract for more than 8 weeks Tangram shall, without limiting its rights or remedies, have the right to terminate the Contract immediately by giving written notice to the Purchaser.

### 14. ASSIGNMENT AND SUB-CONTRACTING

Tangram may at any time assign, sub-contract or delegate any of its rights under the Contract to any third party or agent.

### 15. GOVERNING LAW AND JURISDICTION

The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Scotland and the Purchaser and Tangram prorogate the exclusive jurisdiction of the Scots courts to determine any such dispute or claim.