

Disc-Lock Europe Ltd

Conditions of Purchase

1. DEFINITIONS AND INTERPRETATION

- 1.1. In these conditions:
 - 1.1.1. “the Buyer” means Disc-Lock Europe Ltd
 - 1.1.2. “Buyers Goods” means any items belonging to the Buyer or which the Buyer has agreed to buy or on which Services are to be carried out
 - 1.1.3. “these Conditions” means the standard conditions and other terms of purchase set out in this document and includes any special conditions or other terms specified in the Order
 - 1.1.4. “Goods” and “Services” means the goods or services to be supplied by the Supplier pursuant to the Order
 - 1.1.5. “the Order” means the purchase order placed by the Buyer
 - 1.1.6. “the Supplier” means the individual, firm, company or other party with whom the Buyer contracts
- 1.2. The headings in these Conditions are for convenience only and are not for the purpose of interpretation
- 1.3. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time
- 1.4. If any provision of these Conditions is or becomes illegal, void or unenforceable for any reason, the validity of the remaining provisions shall not be affected
- 1.5. References to clauses are to clauses of these Conditions, unless otherwise stated
- 1.6. If there is any inconsistency with the express terms of the Order and the express terms of these Conditions then the express terms of the Order shall prevail

2. CONTRACT TERMS, VARIATIONS AND REPRESENTATIONS

- 2.1. The contract made between the Buyer and the Supplier shall be subject only to these Conditions and any terms implied by statute or common law. Representatives or agents of the Buyer have no authority to agree any terms or make any representations inconsistent with these Conditions or to enter into any contract except on the basis of them alone unless they are a director of the Buyer and such terms and representations are in writing.
- 2.2. In accepting the Order, the Supplier agrees to be bound by these conditions and no others and hereby irrevocably waives any of its rights under or the provisions of any of its own standard terms and conditions which may otherwise have legal effect.
- 2.3. The Buyer shall be bound by the Order only if it is placed as an official Order. If the Supplier fails to accept the Order in writing or otherwise, delivery of the Goods or provision of the Services shall be deemed to constitute acceptance.
- 2.4. The Buyer reserves the right to require modifications to the design or composition of the Goods to be delivered or the nature of the Services to be supplied. Such modifications shall thereafter be considered to be incorporated in the Order. An appropriate adjustment shall be made to the total contract price.
- 2.5. The Buyer’s representatives may inspect the Goods or the Buyer’s Goods at any reasonable time at the Supplier’s premises. No such inspection shall represent an acceptance by the Buyer or relieve the Supplier of any of its contractual or statutory obligations.
- 2.6. If the Goods are to be manufactured using new tools the Supplier shall submit to the Buyer an agreed number of samples made by the new tools for testing and obtain the Buyers approval before manufacturing the Goods.

3. SPECIFICATION OF GOODS AND/OR SERVICES

- 3.1. The Goods and /or Services shall conform in all respects with the Order and with any representations previously made by or on behalf of the Supplier.
- 3.2. The Goods shall:
 - 3.2.1. Be of first class materials and workmanship and as safe as persons generally are entitled to expect
 - 3.2.2. Be equal in all respects to all samples, patterns and specifications provided or given by either party (in the event of conflict between the specifications of the Buyer and the Supplier those of the Buyer shall prevail)
 - 3.2.3. Be capable of any standard of performance specified in the Order
 - 3.2.4. Be fit for any particular purpose for which the Goods are being bought which expressly or by implication is made known to the Supplier
 - 3.2.5. Comply in design, construction and quality with all relevant codes of practice, International, European and British Standards and other regulations and legislation affecting the Goods which may be in force when they are supplied
- 3.3. The Services shall be carried out with all reasonable skill and care
- 3.4. All work carried out by the Supplier in the course of or in connection with the provision of the Services and all materials used or provided by the Supplier shall be first class and suitable in all respects. Services carried out to or on the Buyer’s Goods shall render the Buyer’s Goods fit for any purpose for which the Services have been carried out which is made known to the Supplier, and shall render the Buyer’s Goods as safe as persons generally are entitled to expect.

4. INSPECTION AND TESTING

- 4.1. The Supplier shall allow the Buyer to inspect and test the Goods (or the Buyer’s Goods) during manufacture or processing at the place of manufacture or performance. The Supplier shall provide the Buyer with all facilities reasonably required for inspection and testing.
- 4.2. Before despatching or delivering the Goods (or Buyer’s Goods) the Supplier shall carefully inspect and, where appropriate, test them for compliance with the provisions of clause 3

5. REJECTION

- 5.1. If any Goods are found on inspection by the Buyer or its customer not to comply in all respects with the contract, the Buyer may reject them(whether or not payment for them has been made to the Supplier). Upon such rejection the Buyer may at its option:
 - 5.1.1. Return such Goods to the Supplier at the Supplier’s risk and expense for a full credit or replacement (at the Buyer’s option); or

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5.1.2. Itself correct or repair them, and it shall be entitled to reimbursement from the Supplier forthwith for the costs incurred: or

5.1.3. Instruct the Supplier to attend where the Goods may be situated and the Supplier shall rectify such Goods on site

5.2. The exercise of the rights provided in clause 5.1 shall not prejudice or limit any claim for damages that the Buyer may have in respect of any breach by the Supplier of its obligations under the contract or any failure of the Goods or Services to comply with the provisions of the clause

6. REPAIR OR REPLACEMENT OF GOODS AND/OR SERVICES

6.1. Without prejudice to any other rights it may have, the Buyer may at any time, at its option, require the Supplier (at the Supplier's expense and as soon as reasonably practicable) to carry out again any Services that do not comply with the provisions of clause 3 and make good, repair or replace all Goods that are or become defective where such defects are due to:

6.1.1. Faulty design by the Supplier or its sub-contractors

6.1.2. The Supplier's erroneous instructions a to use or erroneous data

6.1.3. Inadequate or faulty materials or workmanship; and/or

6.1.4. Any other breach of the Supplier's express or implied obligations under this contract

6.2. The provisions of clause 6.1 shall apply to repaired and replacement Goods and to Services carried out again as they do to Goods and Services as originally supplied

7. DELIVERY

7.1. The Supplier shall deliver the Goods (or the Buyer's Goods as the case may be) to the address or addresses and/or delivery points specified in the Order or subsequently specified by the Buyer in writing

7.2. The Supplier shall deliver the Goods between the hours of 8am and 3pm Monday to Friday, excluding English bank holidays and the Buyer's shutdown periods as notified to the Supplier

7.3. The Goods (or the Buyer's Goods as the case may be) shall be delivered and the Services shall be provided by the date/dates stipulated in the Order or otherwise agreed. Delivery and the provision of Services by that date/those dates, is of the essence and in default the Buyer shall be entitled to terminate the contract in respect of the Goods not delivered and/or the Services not performed on that date/dates. On termination in this way the Buyer shall, without prejudice to any other claim for damages, be entitled to recover from the Supplier any additional expenditure that it may incur in obtaining other goods or services in replacement of those Goods or Services in respect of which the contract has been terminated.

7.4. The Buyer shall have the right to refuse to accept Goods delivered in advance of the date specified in the Order or otherwise agreed.

7.5. The Buyer may return at the Supplier's expense any Goods delivered in excess of the quantity ordered.

7.6. Subject to clauses 7.1 to 7.4 the Supplier shall immediately rectify or replace any Goods damaged or lost in transit

7.7. Where applicable the contract shall be deemed to incorporate the latest edition of Incoterms current at the date of the contract. If there is any inconsistency between Incoterms and any express terms of the Order, the express terms shall prevail.

7.8. The Supplier shall be liable for the cost of rectification of any damage caused to the Buyer's premises or property during delivery.

7.9. The Supplier shall and/or shall procure that its employees and agents shall when attending the Buyer's premises wear appropriate safety equipment at all times and comply with the Buyer's enforcement notices of which the Supplier is made aware.

8. PRICES AND PAYMENT

8.1. Unless otherwise agreed in writing by the Buyer the Goods or Services shall be supplied at the prices quoted by the Supplier and shown in the Order. The Supplier shall not be entitled to increase those prices for any other reason nor to make any additional charges for packaging, shipping, carriage, insurance or delivery of the Goods or Services. Value Added Tax where applicable shall be shown separately on all invoices.

8.2. The Supplier shall send with each delivery a delivery note and shall send separately an invoice showing the Order number. Invoices will not be accepted if an Order number is not stated.

8.3. All Goods shall be accompanied by documentation permitting the Goods to be traced to their raw material batch together with details of mechanical properties and /or tensile hardness and any other details the Buyer may have requested at the time of placing the Order. In the case of raw materials they shall be supplied with a certificate of test and analysis.

8.4. Unless otherwise agreed in writing, invoices shall be payable 30 days after the last day of the month following the month in which:

8.4.1. The delivery is effected: or

8.4.2. The Services are completed – whichever is later

8.5. No payment made shall imply acceptance of any of the Goods or Services supplied or performed by the Supplier, nor in any way restrict any claims or fights the Buyer may otherwise have against the Supplier.

9. RISK AND PROPERTY

9.1. Subject to clause 9.2 the property and risk in the Goods shall pass to the Buyer on delivery to the point specified in the Order without prejudice to any right of rejection that the Buyer may have.

9.2. Where payment or part payment for the Goods is made before delivery, property (but not risk) in the Goods shall pass on such payment or part payment without prejudice to any right of rejection that the Buyer may have. The Supplier shall identify such Goods as the property of the Buyer.

9.3. Property in the Buyer's Goods shall at all times remain vested in the Buyer and they shall be identified by the Supplier as belonging to the Buyer.

10. PACKAGING, LABELLING, INSTRUCTIONS AND WARNINGS

10.1. The Supplier warrants that the labelling and packaging of the Goods will comply with the requirements of any statute or other instrument having the force of law and that all necessary information about the use for which the Goods are supplied has been provided to the Buyer.

10.2. The Supplier shall supply with the Goods all written instructions, information and warnings relating to the Goods necessary for their safe use or for the Buyer to comply with any obligation it may have under any statute or otherwise.

10.3. The Supplier warrants that the Goods will be properly packed and secured so as to reach the delivery address in an undamaged condition.

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11. INDEMNITY

- 11.1.** The Supplier shall fully indemnify the Buyer against each and any loss, liability, damages, costs (including legal costs) and expenses arising from or incurred by reason of any infringement or alleged infringement or any unauthorised use or alleged unauthorised use of any patent, registered design, copyright, design right, trade mark, trade name or other intellectual property right of any third party by the possession, use, hire, sale or offer for hire or sale of the Goods or by the use or disposal of the Buyer's Goods. The indemnity in this clause 11.1 shall not apply to any liability that arises because the Supplier followed a design furnished by the Buyer or because the Goods (or the Buyer's Goods) were used in a manner for a purpose not reasonably to be inferred by the Supplier and not disclosed to the Supplier before the contract was made.
- 11.2.** The Supplier shall fully indemnify the Buyer against all loss of or damage to the Buyer's Goods and any other goods belonging to the Buyer that may occur from the time such goods or Buyer's Goods are first in the Supplier's possession, custody or control until the time they are delivered to the Buyer, however such loss or damage may be caused and whether or not attributable to any negligence on the part of the Supplier or negligence or wilful default by the Supplier's servant or agents.
- 11.3.** The Supplier shall fully indemnify the Buyer against any loss of or damage to any property or any injury to or death of any person and against any other loss or damage (both direct and consequential) suffered by the Buyer and caused by or arising out of any breach of contract, negligent act or omission or wilful misconduct of the Supplier, its employees, agents or sub-contractors or by any defect in the raw materials used in the design, processing, manufacture, storage or transport of the Goods to the Buyer.

12. DOCUMENTS, DESIGNS AND TOOLING

- 12.1.** All plans, drawings and designs supplied by or at the request of the Buyer to the Supplier for the purposes of the Order shall remain the Buyer's property. The Supplier shall treat them as confidential and shall use them only for the purposes of the Order. The Supplier shall deliver them up to the Buyer upon completion of the contract whichever is the earlier.
- 12.2.** Unless otherwise agreed in writing, all tools, dies, patterns and other equipment supplied to the Supplier by the Buyer or manufactured and obtained by the Supplier wholly or partly at the Buyer's expense (including any replacement) shall be and remain the Buyer's property, shall be clearly marked by the Supplier as "property of TCB Ltd" and shall be used only for the purposes of the Order.
- 12.3.** All intellectual property rights in any plants, drawings, designs, tools, dies, software, goods or other materials originated by the Supplier or its agents, subcontractors or employees for the purposes of the Order shall belong to and are hereby assigned to the Buyer. The Supplier shall upon demand and for the consideration of £1 execute an assignment or confirmatory assignment with full title guarantee of all such intellectual property rights in those originated items (or procure that such an assignment with full title guarantee is obtained from the relevant author/originator) in favour of the Buyer with a full waiver of all moral rights in them in favour of the Buyer.
- 12.4.** The Supplier shall be responsible for any errors or omissions in any drawings, calculations, packing details or other particulars supplied by it whether such information has been approved by the Buyer or not provided that such errors or omissions are not due to inaccurate information furnished in writing by the Buyer.

13. CONFIDENTIALITY

- 13.1.** The Supplier shall not use the Buyer's name for advertisement or publicity without the Buyer's prior written consent and the Supplier warrants that neither it, its employees, agents or subcontractors shall not either during the contract or at any time thereafter disclose any confidential information of the Buyer or supplied by the Buyer to any individual, firm or company or use any such confidential information except for the purposes of the Order.

14. TERMINATION

- 14.1.** The Buyer shall be entitled to terminate the contract without liability to the Supplier by giving notice to the Supplier at any time if:
- 14.1.1.** The Supplier makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (other than for the purpose of amalgamation or reconstruction); or
- 14.1.2.** An administrative receiver or administrator is appointed over any of the Supplier's property or assets; or
- 14.1.3.** The Supplier ceases, or threatens to cease, to carry on business; or
- 14.1.4.** The Buyer reasonably believes that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
- 14.2.** If the Buyer exercises any of its rights under clause 14.1 this shall not prejudice or affect any right of action or remedy which has already accrued to it at that time or which may accrue to it thereafter.

15. FORCE MAJUERE

- 15.1.** If the Buyer is affected by events beyond its reasonable control (including, without limitation, the imposition of parliamentary or governmental restrictions, trade disputes, damage to its goods or property or the suspension or cancellation of orders by its customers) it shall be entitled without incurring any liability to the Supplier to require the Supplier to defer any delivery or the provision of any Services for such a period as may be reasonably necessary or to cancel any Order. Subject to clause 15.2, if the Buyer cancels any Order the Supplier shall be entitled after 90 days to payment of any sum that the Supplier has reasonably incurred in carrying out any work prior to the date of cancellation in the provision of Services or the production of Goods for delivery to the Buyer under the Order, provided that within 30 days from the date of cancellation the Supplier has submitted to the Buyer in writing its claim for payment together with all information reasonably necessary to enable the Buyer to verify the claim.
- 15.2.** The sum referred to in clause 15.1, when aggregated with any monies already paid in relations to the Order, shall not exceed the contract price.

16. ASSIGNMENT

- 16.1.** The Supplier shall not without the Buyer's written consent assign, transfer, hold upon trust for any third party or sub-contract (in whole or in part) any of its rights or obligations under the contract. Any such consent shall not relieve the Supplier of any of its obligations under the contract.

17. WAIVER

- 17.1.** If the Buyer waives any breach of the contract by the Supplier this shall not be construed as a waiver of any subsequent breach of the contract or any other provision.

18. PROPER LAW AND JURISDICTION

- 18.1.** These Conditions shall be governed by and construed in all respects in accordance with English law and shall be deemed to have been made in England. Each party hereby submits to the jurisdiction of the English courts.