

## CULLIGAN COMMERCIAL UK LIMITED - STANDARD TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

### 1. DEFINITIONS

In these Conditions, the following definitions apply:

**"Business Day"** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;  
**"Conditions"** the terms and conditions set out in this document as amended from time to time in accordance with clause 16.7;  
**"Confidential Information"** information in whatever form (including, without limitation, in written, oral, visual or electronic form) relating to the business, employees, customers, products, affairs and finances of a party, any technical data and know-how or information about any suppliers, agents, distributors, shareholders, management or business contacts and any information that either party creates, develops, receives or obtains in connection with the Contract, whether or not such information is marked confidential;  
**"Contract"** means the contract between Culligan and the Supplier for the supply of Goods and/or Services in accordance with these Conditions;  
**"Culligan"** Culligan Commercial UK Limited (registered in England and Wales with company number 08915340);  
**"Force Majeure Event"** an event or circumstance which is beyond the reasonable control of a party (including, but not limited to, war, national emergency, flood, or earthquake), which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable and could not have been prevented by industry standard business continuity practices;  
**"Goods"** the goods (or any part of them) set out in the Order;  
**"Intellectual Property Rights"** all intellectual property rights including without limitation, patents, trademarks, service marks, design rights, copyright, lending and rental rights, technical know-how, trade secrets, confidential information and any other commercial monopoly rights, and any applications and rights to apply for any of the above in any part of the world;  
**"Order"** Culligan's purchase order for the supply of Goods and/or the Services to which these Conditions apply;  
**"Services"** the services if any (or any part of them) set out in the Order;  
**"Supplier"** the person or firm from whom Culligan purchases the Goods and/or the Services.

### 2 BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by Culligan to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
  - 2.2.1 the Supplier issuing written acceptance of the Order; or
  - 2.2.2 any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence.
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 2.5 In the case of any conflict or ambiguity between any provision contained in these Conditions and any provision contained in an Order, the provision in the Order shall take precedence.

### 3 SUPPLY OF GOODS

- 3.1 The Supplier shall ensure that the Goods:
  - 3.1.1 correspond with their description and the specification set out in any applicable Order;
  - 3.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by Culligan expressly or by implication;
  - 3.1.3 where applicable, be free from defects in design, material and workmanship and remain so for the period of the manufacturer's warranty or 12 months after Delivery (as defined in clause 4.2), whichever lasts longer; and
  - 3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
- 3.3 Culligan shall have the right to inspect and test the Goods at any time before Delivery.
- 3.4 If following such inspection or testing Culligan considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, Culligan shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and Culligan shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.6 Supplier shall use all reasonable endeavours to comply with any change request submitted by Culligan to the scope of Services, and shall notify Culligan within 3 days of any impediments to such change request, failing which such change request shall be binding on Supplier. Supplier shall provide a quote for any increased costs in relation to such change request within 3 days of such request, failing which no increased costs will be considered by Culligan or invoiced by Supplier.

### 4 DELIVERY OF GOODS

- 4.1 The Supplier shall ensure that:
  - 4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - 4.1.2 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
  - 4.1.3 if the Supplier requires Culligan to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material should only be returned to the Supplier at the cost of the Supplier.
  - 4.1.4 The Supplier shall deliver the Goods:
    - 4.1.5 on the date specified in the Order, or, if no such date is specified, within 28 days of the date of the Order ("Delivery Date");
    - 4.1.6 to the location set out in the Order, or to the location specified by Culligan prior to Delivery ("Delivery Location"); and
    - 4.1.7 during Culligan's normal business hours, or as instructed by Culligan.

- 4.2 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location ("Delivery").
- 4.3 If the Supplier:
  - 4.3.1 delivers less than 95% of the quantity of Goods ordered, Culligan may reject the Goods; or
  - 4.3.2 delivers more than 105% of the quantity of Goods ordered, Culligan may at its discretion reject the Goods or the excess Goods, and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and Culligan accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 4.4 The Supplier shall not deliver the Goods in instalments without Culligan's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle Culligan to the remedies set out in clause 6.

### 5 SUPPLY OF SERVICES

- 5.1 The Supplier shall from the date set out in the Order and for the duration of this Contract provide the Services to Culligan in accordance with the terms of the Contract.
- 5.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by Culligan.
- 5.3 In providing the Services, the Supplier shall:
  - 5.3.1 co-operate with Culligan in all matters relating to the Services, and comply with all instructions given by Culligan;
  - 5.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 5.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
  - 5.3.4 ensure that the Services conform with all descriptions and specifications and are fit for any purpose expressly or impliedly made known to the Supplier by Culligan;
  - 5.3.5 provide all equipment, tools, vehicles and such other items as are required to provide the Services;
  - 5.3.6 use the best quality goods, materials, standards and techniques, and ensure that all goods and materials supplied and used in the Services or transferred to Culligan, will be free from defects in workmanship, installation and design;
  - 5.3.7 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
  - 5.3.8 observe all health and safety rules and regulations and any other security requirements that apply at any of Culligan's premises (or the premises of any Culligan client); and
  - 5.3.9 hold all materials, equipment and tools, drawings, specifications and data supplied by Culligan to the Supplier ("Culligan Materials") in safe custody at its own risk, maintain such materials in good condition until returned to Culligan, and not dispose or use them other than in accordance with Culligan's written instructions or authorisation. The Supplier acknowledges that the Culligan Materials and all rights in the Culligan Materials are and shall remain the exclusive property of Culligan.

### 6 REMEDIES

- 6.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, Culligan shall, without limiting its other rights or remedies, have one or more of the following rights:
  - 6.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 6.1.2 to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
  - 6.1.3 to recover from the Supplier any costs incurred by Culligan in obtaining substitute goods and/or services from a third party;
  - 6.1.4 where Culligan has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and
  - 6.1.5 to claim damages for any additional costs, loss or expenses incurred by Culligan which are in any way attributable to the Supplier's failure to meet such dates (for the avoidance of doubt, including any expenses, costs and/or liquidated damages for which Culligan is liable under any contract with a main contractor, for whom such Services are ultimately performed).
- 6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting its other rights or remedies, Culligan shall have one or more of the following rights, whether or not it has accepted the Goods:
  - 6.2.1 to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
  - 6.2.2 to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 6.2.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
  - 6.2.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - 6.2.5 to recover from the Supplier any expenditure incurred by Culligan in obtaining substitute goods from a third party; and
  - 6.2.6 to claim damages for any additional costs, loss or expenses incurred by Culligan arising from the Supplier's failure to supply Goods in accordance with clause 3.1.
- 6.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 6.4 Culligan's rights under this Contract are in addition to its rights and remedies implied by statute and common law.
- 6.5 If the Goods are replaced or repaired in accordance with clause 6.2.3 above, such replacement or repaired Goods shall have the benefit of the longer of either the remainder of the relevant warranty period in clause 3.1.3 or an extended 3 months warranty from Delivery of the replacement or repaired Goods.

### 7 TITLE AND RISK

- 7.1 Title and risk in the Goods shall pass to Culligan on Delivery.

### 8 PRICE AND PAYMENT

- 8.1 The price of the Goods:
  - 8.1.1 shall be the price set out in the Order; and
  - 8.1.2 shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by Culligan. No extra charges shall be effective unless agreed in writing and signed by Culligan.
- 8.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the

- Services. Unless otherwise agreed in writing by Culligan, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 8.3 In respect of Goods, the Supplier shall invoice Culligan on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice Culligan on completion of the Services. Each invoice shall include such supporting information required by Culligan to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- 8.4 In consideration of the supply of Goods and/or Services by the Supplier, Culligan shall pay the invoiced amounts within 60 days from the end of the month in which a correctly rendered invoice is received by Culligan to a bank account nominated in writing by the Supplier.
- 8.5 All amounts payable by Culligan under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to Culligan, Culligan shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 8.6 If Culligan fails to make any payment due to the Supplier by the due date for payment, then Culligan shall pay interest on the overdue amount at the rate of 2% per annum above Barclays Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. This clause shall not apply to payments that Culligan disputes in good faith.
- 8.7 Culligan may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to Culligan against any liability of Culligan to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.
- 9 INTELLECTUAL PROPERTY RIGHTS**
- 9.1 The Supplier warrants and represents that the supply of the Goods and/or the provision of the Services does not infringe the Intellectual Property Rights or other rights of a third party.
- 9.2 The Intellectual Property Rights in the Goods that are manufactured pursuant to the specific instructions of Culligan and any work products that are specifically produced for Culligan as part of the Services under the Contract (if any), shall be the exclusive property of Culligan and the Supplier shall assign to Culligan for no additional consideration all such Intellectual Property Rights with full title guarantee and waives all moral rights in relation to the Intellectual Property Rights and undertakes to sign all documents and do all such things to assign such Intellectual Property Rights to Culligan.
- 10 INDEMNITY**
- 10.1 The Supplier shall, upon demand, keep Culligan indemnified in full against all liabilities, costs, expenses, damages and losses suffered or incurred by Culligan as a result of or in connection with:
- 10.1.1 any claim made against Culligan for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the manufacture, supply or use of the Goods or the receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- 10.1.2 any claim made against Culligan by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods and/or Services, to the extent that the defects in the Goods and/or Services are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
- 10.1.3 any claim made against Culligan by a third party arising out of or in connection with the supply of the Goods and/or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 10.2 This clause 10 shall survive termination of the Contract.
- 11 INSURANCE**
- 11.1 The Supplier shall at all times (including for (i) the expected lifetime of the Goods and at least the period of any warranty given in respect of them, and (i) for the duration of the Services and 24 months after) maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on Culligan's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 12 CONFIDENTIALITY**
- 12.1 A party ("Receiving Party") shall keep in strict confidence all Confidential Information which has been disclosed to the Receiving Party by the other party ("Disclosing Party"), its employees, agents or subcontractors. The Receiving Party shall only disclose such Confidential Information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The Receiving Party may also disclose such of the Disclosing Party's Confidential Information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 12.2 This clause 12 shall survive termination of the Contract.
- 13 TERMINATION**
- 13.1 Culligan may, without cause, terminate the Contract in whole or in part at any time before Delivery (in relation to Goods) or before performance of the Services, with immediate effect by giving the Supplier written notice. In this event, Culligan shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods and/or Services at the time of termination. Culligan shall not in any circumstances be liable to the Supplier for any loss of actual or anticipated profits, loss of contracts or goodwill, or any indirect or consequential loss.
- 13.2 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 13.2.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so; or
- 13.2.2 the other party is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), or becomes insolvent, or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction), or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets, or enters into or proposes any composition or arrangement with its creditors generally, or is subject to any analogous event or proceeding in any applicable jurisdiction; or
- 13.2.3 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 13.3 In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.
- 13.4 On termination of the Contract the Supplier shall immediately return to Culligan all Culligan Materials. If the Supplier fails to do so, then Culligan may enter the Supplier's premises and take possession of them.
- 13.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.
- 14 FORCE MAJEURE**
- 14.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from a Force Majeure Event, provided it notifies the other party of such within 1 working day of its occurrence.
- 14.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.
- 14.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than five Business Days, Culligan may terminate the Contract immediately by giving written notice to the Supplier.
- 15 ANTI-BRIBERY**
- 15.1 The Supplier shall:
- 15.1.1 comply with all applicable laws, statutes, and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");
- 15.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010;
- 15.1.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate; and
- 15.1.4 promptly report to Culligan any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract.
- 15.2 Breach of this clause 15 shall be deemed a material breach under clause 13.2.1.
- 16 GENERAL**
- 16.1 Assignment and other dealings**
- 16.1.1 Culligan may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 16.1.2 The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Culligan.
- 16.2 Notices**
- 16.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax always with a copy by e-mail.
- 16.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.2.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- 16.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 16.3 Severance**
- If any provision or part-provision of the Order or these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Order and/or these Conditions.
- 16.4 Waiver**
- A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.5 No partnership**
- Nothing in these Conditions or in the Order is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 16.6 Third party rights**
- Save as expressly provided in the Order, no provision of the Order or these Conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.
- 16.7 Variation**
- Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Culligan.
- 16.8 Governing Law and Jurisdiction**
- 16.8.1 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 England and Wales.
- 16.8.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).