



TERMS & CONDITIONS FOR SUPPLY OF GOODS & SERVICES

These **Terms and Conditions** are made on the date set out in the Purchase Order.

1. Definitions

1.1 The definitions and rules of interpretation in this clause apply to the Terms.

Affiliate means any entity that directly or indirectly controls, is controlled by or is under common Control with, another entity

Applicable Law means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national or international in any relevant jurisdiction from time to time

Contract of Supply means an agreement for supply of goods and/or services previously entered into by the Supplier and the Customer

Commencement Date means the date as set out in the Purchase Order

Confidential Information means any commercial, financial or technical information, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by the Customer in performing its obligations under the Terms or otherwise pursuant to any other agreements between the Customer and the Supplier

Control means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company

Customer means Swift Group Limited, a company incorporated in England (Company No. 00832994) with its registered office at Dunswell Road, Cottingham, East Yorkshire, HU16 4JX

Customer Group means Customer and its Affiliates and **member of the Customer Group** shall be construed accordingly

Delivery Date means the date for the delivery of the Goods and/or Services as set out in the Purchase Order

Delivery Location means the address for delivery of the Goods and/or Services, as set out in the Purchase Order

Goods means the goods (or any part of them) as set out in the Purchase Order

Health and Safety Laws means the Health and Safety at Work etc Act 1974 and its subordinate regulations, any statutory codes issued under it such as any Approved Codes of Practice, any Health and Safety Executive (HSE) guidance and all other applicable UK legislation, statutory instruments and regulations in relation to health and safety

Intellectual Property Rights means all current and future copyright, patents, trade marks or rights in databases, inventions or trade secrets, know-how, rights in designs, topographies, trade and business names, domain names and website addresses, marks and devices (whether or not registered) and all other intellectual property rights and applications for any of those rights (where such applications can be made) capable of protection in any country of the world

Losses means all losses, liabilities (including provision for contingent liabilities), fines, damages, costs and expenses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal fees on a solicitor/client basis including and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties (calculated on a full indemnity basis) and all other reasonable costs and expenses) and **Loss** shall be construed accordingly

Policies means any policy or policies the Customer has in place from time to time and includes, but is not limited to, any health and safety policies, risk assessments or contractor specific on-boarding

Purchase Order means the Customer's order for the Goods and/or Services submitted by the Customer in accordance with clause 2

Price means the price for the Goods and/or Services, as set out in the Purchase Order

Remedial Action means any one or more of the following repair, replace or provide a full refund of the Price of the rejected Goods (if paid)

Services means the services to be supplied to the Customer and any other member of the Customer Group by the Supplier under the Terms including the services described in the Specification and Purchase Order

Specification means the specification for the Goods and/or Services, including any related plans and drawings that are agreed by the Customer and the Supplier as set out in the Purchase Order

Supplier means the person, firm or company whose name appears as the addressee in the Purchase Order

Terms means the Terms and Conditions and the Purchase Order

Terms and Conditions means the terms and conditions set out in this document

VAT means value added tax or any equivalent tax chargeable in the UK or elsewhere

- 1.2 If there is any conflict between a clause in these Term and Conditions and the Purchase Order, the Purchase Order shall prevail.
- 1.3 These Terms and Conditions do not apply if the Supplier has a Contract of Supply with the Customer. If the Supplier has a prior Contract of Supply with the Customer, the Supplier and the Customer shall contract on the terms of the Contract of Supply only and shall not be bound by these Terms and Conditions. If there is a Contract of Supply in place, any Purchase Orders issued will be governed by the terms of the Contract of Supply, and not these Terms and Conditions.
- 1.4 Except as set out in clause 1.3, these Terms and Conditions apply to the supply of Goods and/or Services set out in the Purchase Order to the exclusion of all other terms and conditions, including those terms and conditions that the Supplier may seek to impose or incorporate (whether by means of acceptance, delivery note, click-wrap agreement or otherwise), or which are implied by trade, custom, practice or course of dealing. These Terms constitute the entire agreement between the parties and supersedes and extinguishes all previous terms, agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter unless the parties are subject to an existing Contract of Supply.
- 1.5 Clause headings and references to them are for ease of reference only and do not form part of or affect the meaning, interpretation or construction of these Terms.
- 1.6 References to the singular include the plural (and vice versa), references to one gender include all genders and words denoting persons include individuals, bodies corporate, partnerships, unincorporated associations and other bodies.

- 1.7 Any phrase introduced by the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.8 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.9 References to any law shall, unless otherwise stated, be construed as a reference to that law as amended, extended, re-enacted, modified, consolidated, replaced or superseded by any subsequent law or as contained in any subsequent re-enactment thereof, whether before or after the date of signature of these Terms.
- 1.10 Reference to **writing** or **written** includes letters, emails and fax.

2. Purchase Orders

- 2.1 The Customer may submit a Purchase Order for Goods and/or Services to the Supplier at any time.
- 2.2 The Supplier shall supply the Customer with the Goods and/or Services set out in the Purchase Order, in accordance with the Customer's Specification and on the specified Delivery Date. The Supplier acknowledges and agrees that time, in respect of the Delivery Date, is of the essence.
- 2.3 The Customer may at any time and for any reason amend or cancel a Purchase Order, whether in whole or in part, by giving the Supplier written notice before the Delivery Date.
- 2.4 If the Customer amends or cancels any Purchase Order, whether in whole or in part, the Customer shall pay to the Supplier a fair and reasonable sum for costs reasonably incurred up to the date of the cancellation. The Supplier must take reasonable steps to mitigate its Losses.

3. The Goods

- 3.1 The Supplier shall ensure that the Goods:
- (a) correspond with their description and any applicable Specification;
 - (b) 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 the Customer expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement
 - (c) where the Goods are manufactured products, supplied for use within the customer retailed products, these Goods shall be free from defects in design, material and workmanship and remain so for the duration of the warranty period, which is 3 years from point of retail sale, unless specified differently in the Purchase Order;
 - (d) where the Goods are manufactured products, supplied NOT for use within the customer retailed products, these Goods shall be free from defects in design, material and workmanship and remain so for the duration of the warranty period, which is 24 months from delivery, unless specified differently in the Purchase Order;
 - (e) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;

- (f) comply with all reasonable instructions given by the Customer to the Supplier from time to time, including, but not limited to, specific the Customer labelling requirements or timed deliveries.
- 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 these Terms.
- 3.3 The Customer has the right to inspect and test the Goods at any time before delivery and for a period of not less than 28 days after the Delivery Date.
- 3.4 If following such inspection or testing the Customer considers that the Goods do not conform or meet the Specification or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Customer reserves the right to request the Supplier to promptly carry out any Remedial Action. On request from the Customer, without prejudice to the Customer's other rights and remedies, the Supplier shall promptly carry out any such Remedial Action.
- 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 these Terms, and the Customer shall have the right to conduct further inspections and tests after any Remedial Action.
- 4. Delivery**
- 4.1 DDP Incoterms® 2020 are incorporated into these Terms and the place of delivery shall be set out in each Purchase Order.
- 4.2 The Supplier shall ensure that:
 - (a) the Goods are delivered by the Supplier, or its nominated carrier, to the Delivery Location on the date(s) specified in the Purchase Order;
 - (b) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - (c) each delivery of Goods is accompanied by a delivery note which shows the Customer's order number, the description and quantity of Goods (including the Customer's part number and batch number of the Goods, where applicable), special storage instructions (if any) and, if the relevant Purchase Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered;
 - (d) the Goods delivered are in the exact quantity as set out in the Purchase Order. If any additional Goods are delivered the Supplier shall remove any additional Goods over the ordered quantity at the Supplier's sole cost, risk and expense within 14 days from delivery. If less Goods are delivered the Supplier shall promptly supply the outstanding Goods at the Supplier's sole cost, risk and expense; and
 - (e) it complies with all reasonable instructions given by the Customer in respect of the Goods from time to time and complies with all Policies.
- 4.3 If the Customer rejects any Goods, pursuant to clause 6.1(d), the Goods are returnable at the Supplier's risk and expense. If the Supplier fails to collect rejected Goods within 14 days after notification of their rejection by the Customer, the Customer may charge the Supplier storage costs and sell or dispose of the rejected Goods without further notification to the Supplier. The Supplier acknowledges and agrees that it shall pay the Customer for all costs and expenses, including any Losses, associated with the storage, sale and/or disposal of the rejected Goods within 14 days of being notified by the Customer. The Customer

shall account to the Supplier for the proceeds of sale (if any) after deducting the purchase Price paid for the Goods, storage costs and the Customer's reasonable costs and expenses in connection with the sale.

5. Services

5.1 The Supplier shall:

- (a) ensure that the Services conform in all respects with the Specification;
- (b) perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) ensure that Goods, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;
- (d) co-operate with the Customer in all matters relating to the Services, and comply with the Customer's instructions and comply with all Policies;
- (e) before the date on which the Services are to start, obtain and at all times, maintain during the term of this agreement, all necessary licences and consents and comply with all Applicable Laws in relation to:
 - (i) the Services; and
 - (ii) the installation and use of the Supplier's equipment;
- (f) observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises from time to time and that have been communicated to the Supplier. The Customer reserves the right to refuse any of the Supplier's personnel involved in the provision of the Services access to the Customer's premises, which shall only be given to the extent necessary for the performance of the Services.

6. Customer Remedies

6.1 If the Goods and or Services are not delivered on the relevant Delivery Date, or do not comply with the undertakings set out in clause 3.1 or 5.1 (as applicable), then, without limiting any of the Customer's other rights or remedies, and whether or not the Customer has accepted the Goods, the Customer may exercise any one or more of the following remedies:

- (a) terminate the Purchase Order;
- (b) in respect of Goods, reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's sole risk and expense;
- (c) in respect of Goods, require the Supplier to undertake Remedial Action pursuant to clauses 3.4 and 3.5;
- (d) in respect of Goods, reject the Goods pursuant to clause 4.3;
- (e) in respect of Goods, refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (f) in respect of Services, require the Supplier to re-perform the Services, or to provide a full refund of the Price of the rejected Services (if paid);
- (g) recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party; and

- (h) claim damages for any other costs incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Purchase Order at a rate of £40 an hour.
- 6.2 These Terms shall apply to any repaired or replacement Goods supplied by the Supplier or any Services which are re-performed.
- 6.3 The Customer's rights and remedies under these Terms are in addition to its rights and remedies implied by statute and common law.
- 6.4 The Supplier shall work with the Customer and provide reasonable support (which shall include but is not limited to, replacement, re-performance or repair) to the Customer and any of the Customer's retailers and customers, at the Supplier's sole cost to address any issues with any of the Goods or Services provided by the Supplier under these Terms to the Customer's reasonable satisfaction. This clause shall survive expiry or termination, however arising, of these Terms.
- 7. Title, risk and insurance**
- 7.1 Title in the Goods shall pass to the Customer:
 - (a) on the successful delivery of the Goods to the Delivery Location; or
 - (b) on payment of the Price by the Customer to the Supplier,whichever is the earlier.
- 7.2 Risk in the Goods shall pass to the Customer on the successful delivery of the Goods to the Delivery Location.
- 7.3 The Supplier shall ensure it puts in place and maintains adequate insurance, at the Supplier's sole cost, to fully insure the Goods until such Goods are unloaded at the Delivery Location.
- 8. Price and payment**
- 8.1 The Customer shall pay for Goods in accordance with this clause 8.
- 8.2 The Price:
 - (a) excludes amounts in respect of VAT, which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - (b) includes the costs of all packaging, any applicable duties payable in relation to DDP Incoterms® 2020 and carriage of the Goods.
- 8.3 No extra charges shall be effective unless agreed in writing and signed by the Customer.
- 8.4 The Customer shall pay any undisputed and correctly rendered invoices within 60 days after the end of the month such charge was incurred and on receipt of a valid invoice, unless agreed otherwise in writing between the Customer and Supplier. Payment shall be made to the bank account nominated in writing by the Supplier.
- 8.5 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier.

9. Indemnity

- 9.1 The Supplier shall keep the Customer and the Customer Group indemnified against all Losses suffered or incurred by the Customer as a result of or in connection with:
- (a) any claim made against the Customer or the Customer Group for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods and/or Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
 - (b) any claim made against the Customer or the Customer Group by a third party for death, personal injury or damage to property arising out of or in connection with any defects in the Goods, 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
 - (c) any claim made against the Customer or the Customer Group 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 these Terms by the Supplier, its employees, agents or subcontractors.
- 9.2 This clause 9 shall survive expiry or termination, however arising, of the Terms.

10. Modern Slavery, Anti-Bribery and Health and Safety

For the purposes of this clause 10, the phrase **Slavery and Human Trafficking** shall have the meaning given to it in Section 54 (12) of the Modern Slavery Act 2015 Act (**Act**).

- 10.1 The Supplier shall and shall procure (where relevant) that all persons who are performing services or providing goods in connection with, or which will or may be used in performing or to support the performance of these Terms in any part of the world (collectively, its **Supply Chain**) shall at all relevant times:
- (a) comply with the provisions of the Act and all applicable laws, regulations, codes and guidance made under it or relating to it, and ensure that all of its relevant staff have received appropriate training on the same;
 - (b) not engage in any activity, practice or conduct that would constitute an offence under the Act if such activity, practice or conduct were carried out in the UK;
 - (c) comply with any policy relating to Slavery and Human Trafficking as required by the Customer;
 - (d) take all reasonable steps to ensure that Slavery and Human Trafficking are not taking place in its business or its Supply Chain.
- 10.2 The Supplier shall ensure that each of its sub-contractors shall be bound in writing by terms equivalent in all respects to those set out in this clause. The Supplier shall provide evidence in writing of the Supplier's compliance with this clause promptly on the Customer's request.
- 10.3 The Supplier shall not, and shall procure that its directors, employees, agents, representatives, contractors or sub-contractors shall not, engage in any activity, practice or conduct which would constitute an offence under any anti-bribery and anti-corruption laws, regulations and codes, including but not limited to the Bribery Act 2010.
- 10.4 The Supplier shall have in place adequate procedures designed to prevent any person working for or engaged by the Supplier or any other third party in any way connected to these Terms, from engaging in

any activity, practice or conduct which would infringe any anti-bribery and anti-corruption laws, regulations and codes, including but not limited to the Bribery Act 2010.

10.5 The Supplier will comply with all Health and Safety Laws and any reasonable requirements, including site rules and delivery procedures, communicated to it, its employees or its agents by the Customer.

10.6 Breach of this clause 10 shall entitle the Customer to terminate the Terms by written notice with immediate effect.

11. Compliance with relevant laws and policies

11.1 In performing its obligations under the Terms, the Supplier shall:

- (a) comply with all Applicable Laws, statutes, regulations from time to time in force;
- (b) comply with the Policies; and
- (c) comply with clause 10.

11.2 Breach of this clause 11 shall entitle the Customer to terminate the Terms by written notice with immediate effect.

12. Termination

12.1 Without limiting its other rights or remedies, either party may terminate the Terms with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of the Terms, Terms and Conditions or the Purchase Order and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to these Terms is in jeopardy.

12.2 Without limiting its other rights or remedies, the Customer may terminate the Terms with immediate effect by giving written notice to the Supplier, if the Supplier breaches clauses 10 or 11.

12.3 Termination of the Terms shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of these Terms which existed at or before the date of termination.

12.4 Any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

13. General

13.1 **Force majeure.** Neither party shall be in breach of these Terms nor liable for delay in performing, or failure to perform, any of its obligations under these Terms if such delay or failure result from events, circumstances or causes beyond the reasonable control of that party including acts of God, acts of any governmental or supranational authority, war or national emergency, strikes and other industrial disputes (other than strikes or industrial disputes affecting staff of either party as applicable). If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate the Terms by giving 30 days written notice to the affected party.

13.2 Confidentiality

- (a) Each party undertakes that it shall not at any time disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party.
- (b) Each party may disclose the other party's Confidential Information:
 - (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these Terms. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with clause 13.2(a); and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under these Terms.

13.3 **Variation.** No variation of these Terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.4 **Waiver.** Delay in exercising, or failure to exercise, any right or remedy in connection with these Terms shall not operate as a waiver of that right or remedy. The waiver of a right to require compliance with any provision of these Terms in any instance shall not operate as a waiver of any further exercise or enforcement of that right and the waiver of any breach shall not operate as a waiver of any subsequent breach. No waiver in connection with these Terms shall, in any event, be effective unless it is in writing, refers expressly to this clause, is duly signed by or on behalf of the party granting it and is communicated to the other party.

13.5 **Severance.** If any provision or part-provision of these Terms 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 these Terms.

13.6 **Intellectual Property.** These Terms shall not operate to assign any title, interest or Intellectual Property Rights of the Customer to the Supplier in any capacity.

13.7 Third party rights.

- (a) Except as provided in clause 13.7(b), these Terms are not intended to be for the benefit of, and shall not be enforceable by any person, other than a party, under the Contract (Rights of Third Parties) Act 1999.

- (b) Each and every obligation of the Supplier under these Terms is owed to each member of the Customer Group each of whom may enforce the terms of these Terms and references to the Customer in the context of the Supplier's obligations shall be construed accordingly.
- (c) Notwithstanding clause 13.7(b), the Supplier and the Customer may agree to rescind or vary these Terms without the consent of any other person or entity.
- (d) In respect of any claim or action in respect of any Losses suffered by any member of the Customer Group under or in connection with these Terms, the parties acknowledge and agree that the Customer shall have conduct and management of any such action or claim, except where the same is not permitted in the relevant jurisdiction in which proceedings take place.

13.8 **Counterparts.** These Terms may be entered into in any number of counterparts and by the parties on separate counterparts, all of which taken together shall constitute one and the same instrument.

13.9 **Governing law.** These Terms, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the laws of England and Wales.

13.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms or its subject matter or formation.