

# Terms and Conditions

## 1. DEFINITION AND INTERPRETATION

1.1. In these Conditions:

"BUYER"	means the individual company or organisation whose Order for the Goods is accepted by the Seller
"GOODS"	means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions
"SELLER"	means the Company named on the website heading and in other appropriate places
"CONDITIONS"	means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer or the Seller
"CONTRACT"	means the contract for the purchase and sale of the Goods
"WRITING"	includes telex, cable, facsimile transmission, e-mail and comparable means of electronic communication
"SUPPLIER"	means a manufacturer or an authorised individual having supplied any of the Goods specified on the Website and who owns or is authorised to use the Intellectual Property Rights in the Goods
"INTELLECTUAL PROPERTY"	means copyrights, letters, patents, know how, inventions, utility models, registered and unregistered designs, trade and service marks, trade names logos, patent applications, rights in the nature of copyrights and all other similar rights arising from the Materials and Products
RIGHTS"	means this web service and its contents
"WEBSITE"	means any order placed with the appointed group Seller by the Buyer.
"ORDER"	1.2. Any reference in these Conditions to any provision of a statute shall be continued as a reference to that provision as amended, re-enacted or extended at the Relevant time.
	1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

## 2. BASIS OF SALE

- 2.1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with the description and prices set out on the Website of the Seller, or any written / electronic order of the Buyer which is accepted by the Seller. Subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made by the Buyer.
- 2.2. The Seller's employees or agents are not authorised to make any variations to these Conditions or any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.3. Any advice or recommendation given by the Seller or its employees or agents, to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller. Is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5. Any typographical, clerical, or other error or omission on the Website shall be subject to correction without any liability on the part of the Seller.

## 3. ORDERS AND SPECIFICATIONS

- 3.1. No Order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.
- 3.2. The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Order (including any applicable specification) submitted by the Buyer and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 3.3. The quantity, quality and description of and any specification for the Goods shall be those set out on the Website.
- 3.4. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 3.5. All illustrations dimension weights and capacities are approximate only. Although a number of products on the Website are of standard design the Seller reserves the right to incorporate changes without notice.
- 3.6. The Buyer shall be deemed to have accepted all Goods upon the delivery of the goods by the Seller to the address specified in the Order.
- 3.7. No Order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

## 4. PRICE OF GOODS

- 4.1. The price of the Goods shall be the price listed on the Seller's current Website at the date of acceptance of Order.
- 4.2. The Seller reserves the right, by giving notice to the Buyer, at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller including without limitation the costs passed on from the manufacturer, or any change in delivery dates. The Buyer then has the right to cancel the Order within 7 days of that notice.
- 4.3. Except as otherwise stated all prices quoted on the Website are on an ex works basis and do not include VAT, packaging or delivery which shall be payable in addition and confirmed prior to despatch.

## 5. TERMS OF PAYMENT

- 5.1. The Buyer, if agreed in writing by the Seller, shall open an account with the Seller to use the Seller's account facilities. The Buyer shall open this account if the Buyer's bank details and the two trade references provided by the Buyer are approved by the Seller.
- 5.2. Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods and the Buyer shall pay all sums due under the Contract to the Seller within 30 days from the date of the Seller's invoice.
- 5.3. If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
  - 5.3.1 cancel the Contract or suspend any further deliveries to the Buyer;
  - 5.3.2 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3 percent per annum above Bank of England base rate from time to time accruing from day to day, until full payment is made.

## 6. DELIVERY

- 6.1. Delivery will be made to the address specified in the Order.
- 6.2. Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence.
- 6.3. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.4. If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the Contract price of the Goods.
- 6.5. Notification of damage or incomplete delivery must be made in writing to the carrier within three days of delivery and to the Seller immediately. All the goods must be examined upon receipt and any damage or discrepancy noted on the carrier's sheet. The Seller will not be liable for any claim unless this procedure is followed.

## 7. RISK AND PROPERTY

- 7.1. Title to the Goods shall not pass to the Buyer until the Buyer has paid the full price due under the Contract in cash or cleared funds to the Seller and all other amounts outstanding to the Seller, but, even though the title has not passed, the Seller shall be entitled to sue for their price once this payment has become due.
- 7.2. Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been sold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 7.3. If the Buyer incorporates the Goods into other equipment or products ("the New Goods") provided that the Goods remain a readily identifiable and removable part of the New Goods the provisions of clause 7.2 and 7.3 shall apply.
- 7.4. Risk in the Goods shall pass to the Buyer upon delivery.
- 7.5. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller. But if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other rights or remedy of the Seller) forthwith become due and payable.

## 8. INTELLECTUAL PROPERTY

The Seller does not own the Intellectual Property Rights in the Goods. Nothing in the Contract shall effect or transfer ownership of the Intellectual Property Rights in the Goods to the Seller or Buyer.

## 9. WARRANTIES AND LIABILITY

- 9.1. Subject to the conditions set out below the Seller warrants that the Goods will correspond with the specification on the Website at the time of delivery and will be free from defects in material and workmanship for a period of six months from the date of delivery, whichever is the first to expire.
  - 9.2. The above warranty is given by the Seller subject to the following conditions:
    - 9.2.1. it is established by the Seller that some part of the material used in manufacture was defective;
    - 9.2.2. the Goods have been returned carriage paid to the Seller; and
    - 9.2.3. the Goods have not been subjected to abuse or misuse of any kind.
  - 9.2.4. the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval; and
  - 9.2.5. the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the date for payment.
- 9.3. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 9.4. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller pursuant to clause 6.5 or (where the defect or failure was not apparent on reasonable inspection) within seven days after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 9.5. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or proportionate part of the price), but the Seller shall have no further liability to the Buyer.
- 9.6. Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of anticipated profits, damage to the Buyer's reputation or goodwill, loss of expected future business, damages, costs or expenses payable by the Buyer to any third party or any other indirect or consequential loss (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, except as expressly provided in these Conditions.

## 10. INDEMNITY

- 10.1. If any claim is made against the Buyer that the goods infringe or that their use of resale infringes the patent, copyright, design, trademark or other industrial or Intellectual Property Rights of any other person, the Seller shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim provided that:
  - 10.1.1 the Buyer shall immediately inform the Seller of all such claims;
  - 10.1.2. the Seller is given full control of any proceedings or negotiations in connection with any such claim;
  - 10.1.3. the Buyer shall give the Seller, all reasonable assistance for the purposes of any such proceedings or negotiations;
  - 10.1.4. except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);
  - 10.1.5. the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);
  - 10.1.6. the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and
  - 10.1.7. without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.

## 11. FORCE MAJEURE

- 11.1. The Seller shall not be under any liability for any failure to perform any of its obligations due to Force Majeure. Following notification by the Seller to the Buyer of such course, the Seller shall be allowed a reasonable extension of time for the performance of its obligations.
- 11.2. For the purposes of this Condition Force Majeure means fire, explosion, flood, lightning, Act of God, act of terrorism, war, rebellion, riot, sabotage, or official strike or similar official labour dispute, or events or circumstances outside the reasonable control of the party affected hereby.
- 11.3. If notwithstanding the foregoing liability attaches to the Seller then the amount recoverable by the Buyer or any person claiming through the Buyer in respect of any and all breaches by the Seller shall be limited to the reasonable cost of remedying the defect or other matter constituting such breach (and the Seller shall first be afforded the opportunity of carrying out the remedial work at its own cost) and in no circumstances whatsoever shall the Seller's liability to the Buyer exceed the value of the defective goods in question.

## 12. INSOLVENCY OF BUYER

- 12.1. This clause applies if:
  - 12.1.1. the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
  - 12.1.2. an encumbrancer takes possession, or a receiver is appointed, or any of the property or assets of the Buyer; or
  - 12.1.3. the Buyer ceases, or threatens to cease, to carry on business; or
  - 12.1.4. the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 12.2. If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

## 13. RETURN OF GOODS

The Return of Goods shall not be accepted unless agreed in writing with the Seller.

## 14. GENERAL

- 14.1. Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Any such notice shall be deemed to be served:
  - 14.1.1. if sent by pre-paid first class post to the party to whom it is given, on the third day after posting;
  - 14.1.2. if sent by pre-paid facsimile transmission to the recipients facsimile number, or e-mail on transmission.
  - 14.2. No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
  - 14.3. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
  - 14.4. The Contract shall be governed by the laws of England.