

## GENERAL CONDITIONS OF SALE

### 1. Introductory Provisions

- 1.1 These General Conditions apply to all our sales. Save where the context otherwise requires: (a) "Buyer" means any person, firm or company purchasing from us, whether directly or through any agent authorised by us; (b) "Goods" means all goods sold by us, whether directly or through any agent authorised by us; (c) "in Writing" means signed by a duly authorised representative of us or of the Buyer, as the context may require; (d) "Contract" means the contract of sale and purchase concluded by our acceptance and confirmation of the Buyer's order; (e) "Quotation", "Order" and "Order Confirmation" have the meanings ascribed thereto in Condition 2; (f) "including" and "in particular" mean without limitation; and (g) "VAT" means value added tax and/or any other tax or duty relating to the sale or delivery of goods imposed by the Tax Authorities of the United Kingdom or any other relevant jurisdiction. The rule of construction known as the *ejusdem generis* rule shall not apply.
- 1.2 These General Conditions, together with our Special Conditions (if any), shall constitute the entire agreement between us and the Buyer as to the Contract and shall override any representation, warranty or other statement and any other terms and conditions of whatsoever kind and howsoever formulated, whether written or oral, expressed or implied (with the sole exception of a misrepresentation proved to have been made fraudulently). Any general or special terms and conditions of purchase proposed by the Buyer shall have no effect unless accepted by us in Writing and expressly incorporated into our Special Conditions. Whether or not the Buyer shall acknowledge or confirm in Writing its receipt or acceptance of our General and/or Special Conditions, the Buyer's conduct in performance or purported performance of the Contract shall constitute its unconditional acceptance of our General and Special Conditions. In the event of any conflict between any of our General Conditions and any of our Special Conditions, our Special Conditions shall prevail. The headings herein are for convenience only and shall not affect the construction of these General Conditions.

### 2. Quotations, Orders and Order Confirmations

- 2.1 Any Quotation by us shall not constitute an offer to sell but merely an invitation to place an Order. Accordingly, no binding Contract shall be created until the Buyer shall have placed the Order and we shall have accepted by issuing our written Confirmation of Order.
- 2.2 All our Quotations are valid for **30 days** and subject to availability of the Goods at the date of issue of our Confirmation of Order. Orders must be placed for Goods as quoted by us and all extras and accessories ordered but not specified in our Quotation will be charged for separately.
- 2.3 No Order which has been accepted by us may be cancelled by the Buyer except with our specific agreement in Writing and on terms that the Buyer shall indemnify us fully against all losses (including loss of profit), costs, charges and expenses incurred by us as a result of the cancellation.

### 3. Delivery and Force Majeure

- 3.1 Unless in the circumstances of any particular case we agree guaranteed dates or periods for delivery and our Special Conditions so provide by expressly modifying this General Condition, dates or periods for delivery are indicative and given for information only; and time of delivery shall not be of the essence of the Contract. Whilst we use all reasonable endeavours to comply with such dates or periods for delivery, we shall not be liable for nor be required to indemnify the Buyer against any loss, damage, injury or expense, either direct or indirect and including loss of profit or liability to third parties, suffered or incurred by the Buyer by reason of late delivery of the Goods howsoever caused.
- 3.2 Without prejudice to the generality of the foregoing:
- (a) In the event of any of the following (whether affecting us or any of our suppliers): any earthquake, flood, tempest or other natural phenomenon or Act of God, or any fire, explosion or other accident, or any peril of the sea, or any war (whether declared or not) or war-like conditions, or the imposition of any trade sanctions, embargo, blockade, interdiction or freezing order or any sabotage, act of terrorism, insurrection, riot, civil commotion or rebellion, or any serious crisis or upheaval of a political, military, economic or financial nature, or any legislative or executive act, order, requirement or regulation done or made by or on behalf of any governmental or quasi-governmental, statutory, municipal or local authority in any country, or any intervention by any customs, fiscal or other authority, or any strike, lock-out, trade or labour dispute or anything done in contemplation or furtherance thereof, or any stoppage of labour, short-time working or lay off howsoever caused, whether partial or general, or any impassable roads, breakdown of plant or machinery or means of communication, or any non-availability of labour, materials or fuel or any non-availability, delay, interruption, detention or loss of any means of transportation, or any delay or failure in loading or discharging material or on the part of any independent sub-contractor, supplier or carrier or any prohibition or non-availability of export or import licence, or any non- or late receipt of any necessary information from the Buyer or any other act or omission of the Buyer or any third party for whose conduct we are not responsible, or any other circumstance whatsoever, whether foreseeable or not (including any circumstance affecting, or affecting the availability of, any raw material required for the production of the Goods) beyond our reasonable control preventing, hindering, and/or delaying the manufacture and/or delivery of the Goods, we shall not be responsible for any loss or damage arising in consequence thereof and may, at our option, and without thereby incurring any liability whatsoever to the Buyer, either cancel the Contract (or part thereof) for any deliveries outstanding thereunder or deliver the Goods as soon as conveniently possible after cessation of such circumstances.
- (b) Any delivery of Goods postponed by reason of the such circumstances shall, if we so require, be accepted by the Buyer at the same rate of delivery and on the same terms and conditions as are specified in the relevant order form.
- (c) Any duly authenticated certificate issued by any recognised chamber of commerce in any country in which such circumstances occurred shall be accepted by the Buyer as conclusive proof of the occurrence and duration thereof.
- (d) If by reason of any of such circumstances, we do not have or are unable to obtain sufficient available supplies of the Goods to enable us to fulfil all our Contracts, we may allocate our available supplies amongst any or all purchasers on such basis as we deem fair and practical, without any liability for failure to comply with the provisions of any Order.
- 3.3 Orders for Goods with a minimum quantity per brand and delivery address of 200 articles or representing a minimum value of £2,500 (€3,000 for Buyers located in the Republic of Ireland) in each case before charging VAT shall be delivered carriage paid to the Buyer's place of business as specified in the Order. For all other Orders, the cost of carriage of the Goods to the Buyer's place of business shall be for the Buyer's account. All Goods will travel at the Buyer's risk, even when despatched carriage-paid by carriers of our choice.

### 4. Collection on delivery / liability / time limits for claims

- 4.1 The Buyer will take all necessary steps to collect and take possession of the Goods promptly on delivery. Unless otherwise expressly agreed in Writing in a Special Condition specifically modifying this General Condition, we may deliver and the Buyer will accept up to 10% more or less than the Contract quantity. The Buyer will have **5 working days** from delivery of the Goods within which to satisfy itself that the Goods comply with the requirements of the Contract (unless there are any defects in the quality or state of the Goods which would not be apparent on a reasonable examination, in which event this time limit shall be extended to **30 days** after the date of delivery). Any Goods delivered which are not reported by the Buyer as being non-compliant, by notice in Writing within the relevant time-limit referred to above, shall be deemed to be fully compliant and

complete in accordance with the terms of the relevant Contract and the Buyer shall be deemed to have accepted the Goods as being in accordance with the Contract.

- 4.2 At our sole and absolute discretion, we will replace or repair any non-compliant Goods or refund the price thereof to the Buyer, subject at all times to the Buyer first providing proof of the alleged non-conformity and allowing us every opportunity to inspect and satisfy ourselves as to such alleged non-compliance. The Buyer may under no circumstances destroy any Goods alleged to be non-confirming or take any other action (whether itself or through any third party) to replace or repair any such Goods. In all cases, the Buyer may only return any Goods alleged to be non-compliant with our prior consent in Writing, at the Buyer's expense, in their original packaging, with their original labelling, and in all respects other than the alleged non-compliance fit for sale. Our liability for Goods proved to be non-compliant will be strictly limited to such replacement or refund together with the reimbursement of any direct costs of returning the Goods to us provided that the same are entrusted to a carrier designated or approved by us in Writing.
- 4.3 Any Goods which the Buyer alleges to be non-compliant and which it returns to us without our prior consent in Writing will be held at the Buyer's disposal for **10 days** and will not give rise to any credit note being issued. If such Goods are not collected within such **10 day** period, we may dispose of them freely without any sum being claimed by the Buyer on any grounds.
- 4.4 We shall not entertain any claim by the Buyer in respect of any loss or damage in transit unless the Buyer: (a) gives written notice to us within **21 days** after receipt of our advice note or other notification of the despatch of the Goods, in the case of non-delivery, or within **7 days** after delivery of the Goods in any other case; and (b) complies in all respects with the conditions of carriage of the freight carrier for notifying claims for loss or damage in transit.

### 5. Passing of risk / reservation of title

- 5.1 The risk in the Goods shall pass to the Buyer upon the delivery of the Goods to the Buyer in accordance with the Special Conditions PROVIDED THAT where the Goods are sold on a "DELIVERED" basis, the risk in the Goods shall pass to the Buyer upon the arrival of the Goods at the boundary of the Buyer's premises and before the Goods are unloaded.
- 5.2 Whether or not payment for the particular Goods sold under the relevant Contract shall have been received by us, the property in such Goods shall not pass to the Buyer until we have received in full (in cash or in cleared funds):
- (a) all sums due and/or accruing due to us from the Buyer in respect of the price of such particular Goods, and
- (b) all other sums due and/or accruing due to us from the Buyer on any account.
- The Buyer expressly acknowledges that each of sub-paragraphs (a) and (b) of this Condition 5.2 shall be regarded as separate, distinct and severable provisions for the purposes of Condition 10.4.
- 5.3 Until property in the Goods sold under any relevant Contract has passed to the Buyer, the following provisions shall apply and the Buyer expressly acknowledges that each of the sub-paragraphs (a) to (f) of this Condition 5.3 inclusive shall be regarded as separate, distinct and severable provisions for the purposes of Condition 10.4:
- (a) The Buyer will hold such Goods as bailee for us and will not pledge, transfer by way of security nor otherwise deal with such Goods except by way of sale for full consideration in the ordinary course of the Buyer's business;
- (b) If the Buyer shall so sell such Goods, it shall do so as principal vis-a-vis sub-buyers and not as agent for us. We shall, however, be legally and beneficially entitled to the proceeds, and, until we shall have received all amounts due and/or accruing due to us on any account, the Buyer will receive the proceeds of any such sale by the Buyer in a fiduciary capacity for us, shall not mix them with any other monies or pay them into any bank account not having a credit balance, or otherwise deal with such proceeds, but shall promptly account to us therefor. Should the Buyer fail to observe the provisions of this Condition 5.3(b), we shall be entitled to trace the relevant proceeds of sale into the Buyer's bank account(s) or otherwise by any means permitted by law;
- (c) The Buyer shall hold and exercise for our sole benefit all claims arising against the purchaser under such sale. Forthwith upon our request, the Buyer will assign to us all its rights and remedies against the purchaser to whom the Buyer has sold such Goods;
- (d) The Buyer will store such Goods separately from all other Goods held by it and in a manner which makes them readily identifiable as our Goods and available to us for inspection and/or repossession; and we may at all reasonable times enter upon any premises where such Goods are stored for the purposes of inspecting and/or repossessing them;
- (e) The Buyer shall not suffer or permit such Goods to become subject to any insolvency proceedings or arrangements of any kind; and
- (f) The Buyer shall have no power to give any representation or warranty on our behalf on any resale of such Goods and shall fully indemnify us and save us harmless in respect of any and all representations and warranties purported to be given by the Buyer on our behalf on any such resale.

### 6. Price / invoicing / payment

- 6.1 Unless otherwise expressly stated in the Contract, the price payable by the Buyer for each delivery shall be the price specified in the Contract, subject to any increase provided for therein, to which shall be added any applicable VAT and such price (including such VAT) shall be invoiced by us in the currency of the Contract in accordance with all applicable laws and regulations from time to time prevailing and shall be paid in full and received by us within **30 days** after the date on which we shall have issued the relevant invoice.
- 6.2 All Quotations are subject to alteration without notice to take account both of fluctuations in the cost to our suppliers of labour and materials which may occur in the course of manufacturing and/or supplying the Goods and (where applicable) of fluctuations in freight and insurance rates and other costs of transportation and of currency exchange rates, and of fluctuations in or the application or imposition of customs duties, import charges or any other tariffs, duties, taxes, imposts, assessments, levies or charges which may occur between the date of our Quotation and the date of payment by the Buyer.
- 6.3 Subject to Condition 3.3, we reserve the right to charge to the Buyer any costs, charges or expenses incurred by us as a result of detention of the carrier in consequence of any act or omission of the Buyer, its servants or agents, or as a result of special requirements of the Buyer not provided for in the Contract.
- 6.4 Any compliant payment credited to our account within **10 days** of the date of the relevant invoice will be considered to be a cash payment and will entitle the Buyer to a 1% discount on the net invoiced value exclusive of VAT. Any discount for any such cash payment will be deducted from the price otherwise chargeable in the next invoice issued by us to the Buyer and the amount of any VAT otherwise chargeable on such next invoice shall be adjusted accordingly.
- 6.5 If the Buyer fails to pay the full price for the Goods on the due date for the payment thereof, we shall be entitled (without prejudice to any other right or remedy we may have) to: (a) cancel or suspend any further delivery to the Buyer under any order; and/or (b) sell or otherwise dispose of any Goods which are the subject of any order by the Buyer, whether or not appropriated thereto, and apply the proceeds of sale to the overdue payment; and/or (c) charge the Buyer interest on the price from the date the payment became due until actual payment (as well after as before judgment) at 8% p.a. above the

Bank of England's base rate in force from time to time or, if lower, the rate from time to time provided for by the Late Payment of Commercial Debts (Interest) Act 1998 or any statutory modification thereof for the time being in force.

- 6.6 The Buyer shall not be entitled to withhold payment of any amount payable to us under the Contract because of any disputed claim of the Buyer in respect of faulty Goods or any other alleged breach of the Contract. The Buyer shall make all payments to us without deduction or set-off and, in particular, shall not be entitled to set-off against any monies owed to us under the Contract any monies owed or alleged to be owed by us to the Buyer whether under the Contract or otherwise howsoever.
- 6.7 Without prejudice to Condition 6.5 or to any other right or remedy we may have, whether under these General Conditions or by law, we reserve the right at any time or times to suspend any credit granted to the Buyer, to vary the credit terms of any Contract, to call for immediate cash payment of or satisfactory security for any sum due or to become due to us from the Buyer, to declare all sums due or to become due to us from the Buyer immediately due and payable irrespective of the credit terms of any Contract, to suspend any further deliveries under any or every Contract between ourselves and the Buyer, to terminate wholly or in part any or every such Contract and/or to repossess any Goods sold and delivered to the Buyer pursuant to any or every such Contract and not yet paid for in any of the following events:-
- (a) if the Buyer fails to pay any debt due and payable to us on the due date for payment thereof; or
  - (b) if the Buyer fails to provide when due any letter of credit, bill of exchange or other security required by any Contract; or
  - (c) if the Buyer fails promptly to take delivery of any Goods under any Contract otherwise than in accordance with the Buyer's contractual rights; or
  - (d) if the Buyer, being a body corporate, ceases to pay its debts in the ordinary course of its business or becomes insolvent or has an administrator or receiver (including an administrative receiver) appointed over all or any of its assets or takes or suffers any action preparatory to its winding-up (including, but without prejudice to the generality of the foregoing, the presentation of a winding-up petition, the passing of a resolution for its voluntary winding-up, or the convening of a meeting of its creditors) or takes or suffers any analogous action under any foreign law or being an individual or partnership suspends payment of the Buyer's debts in whole or in part or proposes or enters into any composition or arrangement with the Buyer's creditors or commits any act of bankruptcy; or
  - (e) any other event or circumstance of whatsoever kind occurs or arises, which, in our opinion, may adversely affect the Buyer's ability to pay any sum due or to become due to us under any Contract.
- 6.8 We shall be entitled to exercise any of our rights and/or remedies at any time or times during which the event or default giving rise thereto has not ceased or been remedied and, in the event of any suspension of delivery, we shall be entitled as a condition of resuming delivery under any Contract to require prepayment of, or such security as we may require for the payment of, the price of any further delivery.

## 7. Limitations on our liability

- 7.1 We shall not be bound by any statement, representation, warranty or condition, whether express or implied by statute, custom of the trade, course of dealing or otherwise, as to the quality of the Goods or their fitness for any particular purpose unless we shall have expressly agreed to the same in Writing in a Special Condition specifically modifying this General Condition. In the absence of any such agreement, all such statements, representations, warranties and conditions are hereby expressly excluded.
- 7.2 In no event, shall we be liable for nor be required to hold the Buyer harmless from or indemnify the Buyer against any loss of use, loss of prospective profits, loss of future contracts, damage to plant or machinery, expenditure incurred on Goods supplied, or any special, indirect or consequential loss or damage of whatsoever kind whether arising as a result of breach of contract, negligence or other tort, breach of statutory duty or otherwise howsoever.
- 7.3 For the avoidance of doubt, nothing in these General Conditions excludes or limits our liability for: (a) death or personal injury caused by our negligence, or (b) fraudulent misrepresentation by us.

## 8. Intellectual Property Rights

- 8.1 No trade mark, trade name or logo carried on Goods supplied by us may be in any way altered, obscured, erased or replaced without our express prior consent in Writing.
- 8.2 The Buyer acknowledges that all trade marks, trade names and/or logos carried on Goods supplied by us and all intellectual property rights and goodwill associated therewith are the exclusive property of the manufacturers and/or suppliers of the Goods to us and the Buyer must not, directly or indirectly, do anything to undermine, diminish or harm the validity or renown of

such trade marks, trade names and logos or such intellectual property rights and goodwill or infringe, counterfeit and/or commit any acts of unfair competition with respect to such trade marks, trade names, logos, and intellectual property rights.

- 8.3 The Buyer's right of use on point-of-sale advertising which we may place at its disposal, is strictly limited to the season for retail sales of the Goods and will come to an end on the expiry of the relevant annual/clearance sales period. In the event of any termination of the business relationship between ourselves and the Buyer, the Buyer must immediately cease any and all use of such advertising.
- 8.4 Sales of the Goods over the Internet are strictly prohibited except with our express prior consent in Writing.

## 9. Guarantee for latent defects

- 9.1 In this Condition 9, "latent defects" means any defect not immediately apparent upon careful inspection of the Goods.
- 9.2 No trade Buyer purchasing the Goods from us for on-sale to retail customers shall be entitled to any guarantee for latent defects.
- 9.3 For the benefit of retail customers purchasing the Goods from the Buyer, we do, however, offer the following guarantee on the following conditions for latent defects discovered by such retail customers:-
- (a) the Buyer shall notify us in Writing of such allegedly latent defect notified to the Buyer by its retail customer within **8 days** following the return of the Goods to the Buyer by such retail customer;
  - (b) provided that:
    - (i) such Goods alleged to have a latent defect are returned to us in their original packaging, with their original labelling, and in a state otherwise fit for re-sale, and
    - (ii) such allegedly latent defect is acknowledged by our technical department and/or any service supplier of our choice,
- we will exchange the Goods for Goods identical in all respects other than the allegedly latent defect and bear or reimburse all relevant costs of carriage (provided that the same is entrusted to a carrier designated or approved by us in Writing) or, alternatively, put the Buyer in a position to refund the full price of the Goods to the retail purchaser thereof at no cost to the Buyer.

## 10. Miscellaneous

- 10.1 Rights of Third Parties: No term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 10.2 Variations / Forbearance / Waiver: No variation of any of our General and/or Special Conditions shall be of any effect unless expressly agreed in Writing by us. Our rights shall not be prejudiced or restricted by any indulgence or forbearance extended to the Buyer and no waiver by us in respect of any breach shall operate as a waiver in respect of any subsequent breach.
- 10.3 Restrictions on Assignments: The Buyer may not assign any of its rights or transfer any of its obligations under the Contract without our express prior consent in Writing.
- 10.4 Severability of conditions and provisions: In the event that, for any reason, any of these General Conditions or any provision or part thereof is or is held to be void, unenforceable or otherwise invalid, the Contract shall continue to be fully binding and all others of these General Conditions (including the remainder of the relevant General Condition of which a particular provision or part is so held to be void, unenforceable or otherwise invalid) shall remain in full force and effect.
- 10.5 Notices: Where a notice is required to be served on us by the Buyer or on the Buyer by us such notice must be served in Writing. Any notice to us shall be sent to us for the attention of the managing director at our principal place of business in England for the time being as specified in the Contract, and any notice to the Buyer shall be sent to the Buyer at the address given by the Buyer in the Buyer's Order. Where in these Conditions a period is specified within which notice is to be given such notice must reach the party to which it is addressed within that period.
- 10.6 Governing law and jurisdiction: These General Conditions, any Special Conditions and all Contracts to which they apply shall be construed in accordance with and governed by the laws of England and Wales. The Buyer on entering into the Contract irrevocably submits to the exclusive jurisdiction of the Courts of England and Wales.