

Definitions:

- a) The Seller: Proportionair Ltd Limited of Unit 2, Exis Court, Veasey Close, Attleborough Close Industrial Estate, Nuneaton, Warwickshire, CV11 6RT
- b) These Conditions shall apply to all Contracts for the sale of Goods by the Seller to the exclusion of all other Terms and Conditions including any Terms or Conditions which the Buyer may purport to apply under Purchase Order, Confirmation of Order, or similar documents
- c) The Buyer: The Company, Firm or Person to whom any such Goods are sold as named on the Seller's invoices.
- d) Any variations to these Conditions (including any Special Terms and Conditions agreed between the Parties) shall be inapplicable unless agreed in writing by the Seller.

Quotation:

Every Quotation by the Seller is open to acceptance until the expiry of 30 days after the date appearing thereon unless it is otherwise expressly stated or the Quotation is earlier withdrawn or modified or the Seller expressly agrees in writing to later acceptance.

Delivery of Goods:

- a) Unless otherwise agreed in writing by the Seller, the costs of packing, carriage and delivery of Goods should be paid by the Buyer.
- b) The Goods should be delivered to the Buyer's address on the Delivery Note. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.
- c) Any date for delivery specified by the Seller shall be treated as an estimate only.
- d) The Goods shall be at the Buyer's risk from the time of despatch of the Goods from the Seller's Premises and the Customer shall be responsible for insuring the Goods from that time.
- e) The Seller shall not be liable for any loss or damage whatever due to failure by the Seller to deliver the Goods promptly or at all.
- f) If the Buyer does not accept delivery of the Goods when delivered by the Seller, the Seller shall in its absolute discretion be entitled to treat the contract as at an end, or to deliver the Goods on a later date and if the latter, the Buyer shall be liable to pay the Seller a reasonable sum of storage and to reimburse the Seller for any insurance premiums in respect of the Goods. The Seller shall not be under any liability to the Customer for any loss or damage to the Goods while in storage howsoever arising.
- g) The Seller shall not be liable for any loss or damage or deterioration in the Goods from the time of the despatch of the Goods from the Seller's Premises from whatever cause. Goods shall be deemed to have been despatched in full quantity and in good condition unless particulars of shortage or defects alleged are notified in writing by the Buyer to the Seller within 7 days of the date of despatch as shown on the Seller's Delivery Note.
- h) The Buyer is not entitled to return Goods on the ground they are defective without first giving the Seller written notice whereupon the Seller at its own expense will decide whether to repair or replace the Goods or accept returns.

Price and Payment:

- a) The price shall be the price set out on the Seller's invoice and is exclusive of VAT which shall be at the rate applicable on the date of the Seller's invoice.
- b) Payment of the price and VAT shall be paid on delivery of the Goods unless the Seller has received a satisfactory credit rating for the Customer when the Seller may in writing accept payment in full within 30 days of invoice.
- c) Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at the rate of 5% over the base Rate of Lloyds Bank plc from time to time.
- d) The Buyer shall not be entitled to claim set-off against any of the sums due to the Seller.

Title in Goods:

- a) In spite of delivery having been made, Title in the Goods shall not pass from the Seller until the Buyer has paid the price plus VAT in full and no other sums whatsoever shall be due from the Buyer to the Seller.

- b) Until the Title in the Goods passes to the Buyer under
 - (a) the Buyer shall hold the Goods on a fiduciary basis as Bailee for the Seller and shall store the Goods (at no cost to the Seller) separately from all other Goods in its possession and identify them clearly as the Seller's property.
- c) Notwithstanding that the Goods remain the property of the Seller, the Buyer may sell or use the Goods in the ordinary course of business at the full market value but for the account of the Seller.
- d) The Seller shall be entitled to recover the price plus VAT notwithstanding the property in any of the Goods has not passed from the Seller.
- e) If the Buyer fails to make payment for the Goods within the agreed time, or, if an individual has a Statutory Demand or Bankruptcy Petition served on him, or makes, or proposes a Voluntary Arrangement, or if the Buyer is a Company, where it makes or attempts to make a Voluntary Arrangement, or has a Receiving Order or Winding-Up Petition presented against it, then the Seller has the right to enter upon the Customer's Premises and repossess the Goods belonging to the Seller.

Specifications and Variations:

- a) The Goods shall be supplied in accordance with the description contained in the Seller's specification and/or in the contract.
- b) The Seller may from time to time make changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements, or which do not materially affect the quality or fitness for the purpose of the Goods.
- c) If the Buyer requires any variation in the Goods, it shall deliver a full specification of such amendments to the Seller in writing and if the Seller agrees to make such variations, the Buyer shall pay all reasonable extra costs incurred by the Seller in carrying out such variations and the Delivery Dates shall be as specified by the Seller.
- d) Where the sale is by sample, the bulk of the Goods will correspond with the sample in quality, provided that the Seller will have no liability to the Buyer unless more than 5% of the Goods do not so correspond. The Buyer will have no claim against the Seller unless the Buyer notifies the Seller within 2 days of receipt of the Goods that there is a defect.

Exclusions and Limitations:

- a) The Seller shall be under no liability whatever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Customer arising out of the breach of the Seller of this contract.
- b) In the event of any breach of this contract by the Seller, the remedies of the Buyer shall be limited to damages and under no circumstances shall the liability of the Seller exceed the price of the Goods.
- c) All warranties and conditions whether implied by statute or otherwise are excluded from this contract provided that nothing in this contract shall restrict or exclude liability for death or personal injury caused by the negligence of the Seller or affect the statutory rights of the Buyer dealing as consumer.
- d) All Terms and Conditions and Warranties (whether implied or made expressly) whether by the Seller or its servants or agents or otherwise, other than those expressed warranties set out in the contract relating to the quality and/or fitness for the purpose of the Goods or any of the Goods are excluded.

The Customer will accept full liability for and shall indemnify the Seller against all liability for the accuracy of any design or specification produced by or on behalf of the Buyer and that the Goods shall be fit for the Buyer's purpose and use, the Buyer relying on its own skill and judgement. All descriptions, drawings, specifications and other particulars however issued by or on behalf of the Seller are approximate only and the Seller will not be bound thereby unless expressly confirmed in writing to the Buyer. Performance figures given by the Seller concerning its Goods are typical of what it expects Goods to obtain on test and shall be subject to reasonable tolerance and rejection limits. Deviations from such figures shall not be made the basis of any claim against the Seller, except where it is specifically agreed to the contrary in writing by the Seller and in no event shall the Seller be responsible for performance figures supplied by Sub-Contractors or other Third Parties. The Buyer assumes responsibility for insuring the Goods stipulated in the Order as sufficient and suitable for the purpose required. The Seller reserves the right to alter patents and designs without notice. Published performance figures shall not necessarily apply after service and repairs to the Goods and will depend upon the condition and age of Goods.

Intellectual Property:

- a) The specifications, designs and documents relating to the Goods (including the copyright, design right or other intellectual property in them) belongs to and is the property of the Seller.

- b) Where any designs or specifications have been supplied by the Buyer for the manufacture by or to the order of the Seller, then the Buyer warrants that those designs or specifications for the manufacture, processing, assembling or supply of the Goods shall not infringe the rights of any Third Party.
- c) The Buyer will indemnify the Seller against all costs, claims and demands relating to the sale or use of the Goods supplied to the design or specification under sub-clause (b) which contravenes any Third Party's intellectual property rights.

Cancellation:

- a) The Seller may cancel this Contract at any time before the Goods are delivered by giving written notice. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.
- b) The Buyer may cancel this Contract at any time before the Goods are delivered by giving notice in writing whereupon the Buyer shall forthwith pay to the Seller all costs, liabilities, expenses and loss of profit representing a fair reward for services rendered.

Force Majeure:

Neither Party shall be liable for any default due to any act of God, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of the Parties.

Governing Law:

This Contract is subject to the Law of England and Wales.