

SALE OR RETURN TERMS AND CONDITIONS

THE SALE OF GOODS (B2B)

BACKGROUND:

The Seller is a supplier of goods for its business, intends to purchase these Terms and Conditions.

es and the Buyer, in the course of a sale or return basis subject to

1. Definitions and Interpretation

1.1 In these Terms and following expression

the context otherwise requires, the meanings:

“Business Day”

than a Saturday, Sunday or public

“Buyer”

company that purchases the its business subject to these

“Contract”

the purchase and sale of the ms and Conditions;

“Delivery Date”

ch the Goods are to be delivered ver’s order and accepted by the

“Goods”

ding any instalment of the goods which the Seller is to supply in Terms and Conditions;

“Return Date”

e on which the Buyer may return ce with the sale or return 2 as stipulated in the Contract;

“Returned Goods”

ch the Buyer returns to the Seller sale or return provisions of

“Seller”

company that sells the Goods in ss subject to these Terms and

1.2 Unless the context Conditions to:

ch reference in these Terms and

1.2.1 “writing”, and communicat

on, includes a reference to any or similar means;

1.2.2 a statute or provision as

is a reference to that statute or at the relevant time;

1.2.3 “these Term Conditions a the relevant

a reference to these Terms and s as amended or supplemented at

1.2.4 a Schedule i

ms and Conditions; and

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guide only and shall not constitute an offer or a contract between the Buyer and the Seller.

3.4 The Seller reserves the right to make changes in the specification of the Goods which are subject to any applicable safety or other regulatory or statutory requirements before the Goods are to be supplied to the Buyer, provided that such changes do not materially affect their quality or performance.

3.5 No order which has been accepted by the Seller may be cancelled by the Buyer except with the prior written consent of the Seller on the terms that the Buyer shall indemnify the Seller for all loss (including loss of profit), damages, charges and expenses incurred by the Seller as a result of cancellation.

4. Price

4.1 The price of the Goods shall be as stated in <<insert name of price list, brochure, website, etc.>> at the date of acceptance of the Buyer's order or such other date as may be agreed in writing by the Seller and the Buyer.

4.2 Where the Seller has published a price list, the prices quoted shall be valid for <<insert period>> days only unless otherwise specified by the Seller.

4.3 The Seller reserves the right to increase the price to the Buyer at any time before delivery, to increase the price to reflect any increase in the cost of the Goods beyond the control of the Seller (including, but not limited to, exchange fluctuation, currency fluctuation, increase in the costs of labour, any change in delivery dates, etc.) which is requested by the Buyer, or any delay caused by any instructions of the Buyer, or any delay caused by any information or instructions of the Buyer to give the Seller adequate time to increase the price.

4.4 [The Seller will allow quantity discounts subject to and in accordance with the terms set out in the Seller's published price list for the Goods current at the date of the Buyer's Order.]

4.5 [Any settlement discount allowed by the Seller to the Buyer shall be by the Seller on or before the payment terms set out in the Conditions and provided that no other amounts owing to the Seller are overdue and unpaid.]

4.6 Except as otherwise specified in any quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices shall be exclusive of the Seller's charges for packaging and transport.

4.7 The price is exclusive of any VAT or taxes or levies of a similar nature which are imposed by any competent fiscal authority in the country of origin of the Goods and which the Buyer may be additionally liable to pay to the Seller.

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provisions of sub-C
delivery shall be de
Seller all costs an
arising from such fa

Goods shall pass to the Buyer,
ce and the Buyer shall pay to the
storage and insurance charges,

7. Non-Delivery

If the Seller fails to deliver
than for reasons outside the
fault:

7.1 the Seller shall have
delivers the Goods

7.2 if the Buyer gives written
Days after the Delivery Date
<<insert period>> Business
cancel the order and the Seller
of the cost to the Buyer of
of the Goods not delivered

of them on the Delivery Date other
control or the Buyer's or its carrier's

of such late delivery if the Seller

within <<insert period>> Business
r fails to deliver the Goods within
giving such notice, the Buyer may
all be limited to the excess (if any)
those not delivered over the price

8. Inspection / Shortage

8.1 The Buyer is under
or on collection as to

8.2 Where the Goods are
appropriate shall be

8.3 The Seller shall be
be apparent on receipt
are not complied with
complaint is not delivered
delivery detailing the

8.4 In all cases where
under no liability in
is supplied to the Seller
modification is made

8.5 Subject to sub-Clause
in the Goods and within
soon as it is reasonably
whatsoever arising

to inspect the Goods on delivery

carrier's note or such other note as

any damage or shortages that would
pection if the terms of this Clause
will be under no liability if a written
within <<insert period>> days of
rtage.

complained of the Seller shall be
an opportunity to inspect the Goods
made thereof or any alteration or

ler shall make good any shortage
any Goods damaged in transit as
otherwise shall be under no liability
mage.

9. Risk and Retention of Title

9.1 Risk of damage to

9.1.1 in the case of
when the Seller
collection; or

9.1.2 in the case of
premises, the

pass to the Buyer at:

at the Seller's premises, the time
that the Goods are available for

ed otherwise than at the Seller's
the Buyer wrongfully fails to take

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9.7.6 notice of the proposed appointment of an administrator is given by the Buyer or any of its subsidiaries to the qualifying floating charge-holder (as defined in paragraph 1.1.1) in accordance with section 86(1) of the Insolvency Act 1986 (the "Act") and section 86(1)(b) of the Act (the "Notice") in accordance with paragraph B1 of the Insolvency Act 1986):

9.7.7 a resolution
up of the Bu
of the Buyer

presented to any court for the winding
an administration order in respect

ating to the insolvency or possible

10. Assignment

10.1 The Seller may assign this Agreement to any company.

any part of it to any person, firm or

10.2 The Buyer shall not
the prior written con

the Contract or any part of it without

11. Defective Goods

11.1 The provisions of t
Clause 12 governin

out prejudice to the provisions of

11.2 If on delivery any of the Buyer lawfully receives for on delivery "con notice of such defect the Seller shall at its

in any material respect and either effective Goods or they are signed down" and the Buyer gives written notice within five business days of such delivery,

11.2.1 replace the c
the Buyer's m

<insert period>> days of receiving

11.2.2 refund to the

oods which are defective.

11.3 Notwithstanding the further liability to the not reject the Good set out in sub-Claus

Under Section 11.2 the Seller shall have no effective Goods and the Buyer may void or notice given by the Buyer as

11.4 No Goods may be returned without the prior agreement of the Seller. Goods returned which the Seller deems to be of poor quality or condition may be refused or replaced free of charge. No refund or credit to the Buyer shall be given. The Buyer shall have no further claim.

Under the provisions of this Clause
Seller. Subject thereto any Goods
be supplied subject to defects or
arent on inspection shall either be
s sole discretion, the Seller shall
ch defective goods but the Seller

11.5 The Seller shall be responsible for any damage to the Goods caused by wear and tear or by the normal use of the Goods, or by the conditions, failure to comply with the instructions for use (in writing), misuse or any other act or omission of the Buyer or any third party.

ect of any defect arising from fair
egligence, subsection to normal
uctions (whether given orally or in
ithout the Seller's approval, or any
yer, its employees, agents or any

11.6 Subject as express conditions or other the fullest extent pe

Terms and Conditions, all warranties, or common law are excluded to

11.7 Except in respect negligence, or as Seller shall not be li

injury caused by the Seller's
these Terms and Conditions, the
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- 11.7.1 any representation;
- 11.7.2 any implied warranty;
- 11.7.3 any duty at common law;
- 11.7.4 any duty under statute;
- 11.7.5 any express warranty;

for any of the following in connection with the supply of the Goods or their use:

- 11.7.6 direct or consequential loss (including, without limitation, loss of profit, indirect or special loss);
- 11.7.7 costs;
- 11.7.8 expenses; or
- 11.7.9 other claims (whether or not caused by negligence or otherwise).

- 11.8 The Buyer shall be responsible for following the instructions as to the handling, storage or labelling of the Goods to ensure compliance with all applicable laws. The sale of the Goods is without warranty, given by the Seller. The Buyer will indemnify the Seller against any liability the Seller might suffer in this condition.

12. Sale or Return

- 12.1 The provisions of this Clause 11 governing the Seller's liability to undamaged Goods shall not apply on a sale or return basis.
- 12.2 For a period of <<insert>> the Buyer shall have the right to return the Goods to the Seller without prior authorisation provided:
 - 12.2.1 payment in full for the Goods is received by the Seller;
 - 12.2.2 the Returned Goods are in a saleable condition, and are not damaged, marked, labelled or otherwise altered; and
 - 12.2.3 a returns form is completed and returned to the Seller with the Returned Goods;
 - 12.2.4 the Seller shall not be obliged to reimburse any sum paid to it by the Buyer for the Goods if the Buyer fails to return Returned Goods to the Seller in the period specified in the returns form and 12.2.3 applies.

- 12.3 [Notwithstanding sub-Clause 12.2, the Seller may, at its sole discretion,

any other term;

or in connection with the supply of the Goods or their use:

damage sustained by the Buyer (including, without limitation, loss of profit, indirect or special loss);

compensation whatsoever (and whether or not caused by negligence or otherwise) of the Seller, its servants or agents or

that, except to the extent that the Goods are contained in the packaging or labelling of the Goods by the Buyer is in compliance with the provisions and that the handling and storage of the Goods is in accordance with directions given by the Seller or a governmental or regulatory authority. The Buyer will indemnify the Seller against any liability, loss or damage which the Seller might suffer in this condition.

without prejudice to the provisions of this Clause apply only to the Seller on a sale or return basis.

<<insert>> starting on the Return Date the Buyer shall have the right to return the Goods to the Seller without prior authorisation provided:

the Buyer and received by the Seller in full payment in accordance with Clause 5;

Returned Goods are in a saleable condition, and are not damaged, marked, labelled or otherwise altered; and

the Buyer and dispatched with the Returned Goods;

on to reimburse any sum paid to it by the Buyer for the Goods if the Buyer fails to return Returned Goods to the Seller in the period specified in the returns form and 12.2.3 applies.

seller may, at its sole discretion,

- accept Returned Goods to the Buyer by reference to the estimate of such damage.]
- 12.4 The cost of returning Goods under this Clause shall be borne exclusively by the Buyer.
- 12.5 Any and all refunds by the Seller within <<insert>> of receipt of the Returned Goods in undamaged and saleable condition shall be made by the Seller in accordance with the provisions set out in sub-Clause 12.2.2.
- 12.6 The Seller shall disburse the sums due to the Buyer upon receipt of the Returned Goods and set out the sums due to the Buyer by way of reimbursement or set-off for damaged or otherwise non-saleable Returned Goods.
13. **Risk and Retention of Title**
- 13.1 Risk of damage to or loss of the Goods shall pass back to the Seller at the time of delivery of the Returned Goods if the Seller wrongfully fails to take delivery of the Returned Goods when the Buyer has tendered them.
- 13.2 Notwithstanding delivery of the Returned Goods, all conditions, legal and beneficial title to the Returned Goods shall remain with the Seller until the Buyer has received in cash or in kind full payment for the Returned Goods.
- 13.3 Until payment has been received in accordance with these Terms and Conditions and the Goods have been returned to the Seller, the Seller shall be in possession of the Returned Goods as bailee for the Buyer, and shall store the Returned Goods in an appropriate environment, and shall ensure that the Returned Goods are protected from all foreseeable risks.
- 13.4 The Seller shall not be liable for any loss or in any way charge by way of interest on the Returned Goods which remain in the possession of the Seller, nor shall all money owing by the Seller to the Buyer be set off against the Returned Goods or any other right or remedy of the Buyer.
- 13.5 The Buyer reserves the right to inspect any Returned Goods in which the Buyer retains title and the Seller irrevocably authorises the Buyer to enter the Seller's premises during normal business hours for the purpose of inspecting the Returned Goods and ensuring compliance with the storage and handling requirements set out in sub-Clause 13.3.
- 13.6 The Seller's right to possession of the Returned Goods in which the Buyer retains title shall terminate if:
- 13.6.1 the Seller commits a material breach of his obligations under these Terms and Conditions;
- 13.6.2 the Seller enters into a voluntary arrangement under Part 1 of the Insolvency Act 1986 or a similar arrangement is made with its creditors;

- 13.6.3 the Seller is not subject to a bankruptcy order or takes advantage of any provision for the relief of insolvent debtors;
- 13.6.4 the Seller does not, in relation to its creditors, enter into voluntary arrangements, or become a receiver, manager, administrator or liquidator in respect of its assets or undertakings;
- 13.6.5 any document is not presented to any court for the appointment of an administrator;
- 13.6.6 notice of the appointment of an administrator is given by the Seller or any of its directors or officers to the qualifying floating charge-holder (as defined in paragraph 86(1) of the Insolvency Act 1986);
- 13.6.7 a resolution is not presented to any court for the winding up of the Seller or an administration order in respect of the Seller;
- 13.6.8 any proceedings are not brought relating to the insolvency or possible insolvency of the Seller.

14. **Buyer's Default**

- 14.1 If the Buyer fails to pay the Price by the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
 - 14.1.1 cancel the order and refuse to make further deliveries to the Buyer;
 - 14.1.2 appropriate to itself any or all of the Goods (or any part of them) which are the subject of the contract between the Buyer and the Seller) and treat the same as its own property (notwithstanding any purported reservation of title by the Seller);
 - 14.1.3 charge the Buyer with interest on the amount unpaid at the rate of insert percentage% per annum from the date of the breach of the contract to the time of payment (the period of time of bank default interest, a part of a month being treated as a full month for the purpose of calculating the interest).
- 14.2 This Clause 14 applies if:
 - 14.2.1 the Buyer fails to pay the Price by the due date; or
 - 14.2.2 the Buyer becomes insolvent or enters into an administration order or makes any arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being a company) becomes bankrupt or (being an individual or firm) becomes bankrupt or is made bankrupt or is placed into liquidation; or
 - 14.2.3 an encumbrance is placed on all or any part of the property of the Buyer;
 - 14.2.4 the Buyer ceases to carry on business; or
 - 14.2.5 the Seller receives notice from the Buyer that any of the events mentioned in 14.2.1 to 14.2.4 has occurred and the Buyer notifies the Buyer accordingly.
- 14.3 If sub-Clause 14.2 applies, the Seller shall be entitled, without prejudice to any other right or remedy available to the Seller, to:

available to the Seller to suspend any further performance of the Contract by the Buyer, and if the Goods become immediately available notwithstanding any previous agreement or arrangement.

entitled to cancel the Contract or to suspend any further performance of the Contract without any liability to the Buyer, and if the Goods become immediately available notwithstanding any previous agreement or arrangement.

15. Limitation of Liability

15.1 Subject to Clauses 15.1.1 to 15.1.3, the Seller's financial liability of the Contract shall be limited to its employees and agents.

15.1 Subject to Clauses 15.1.1 to 15.1.3, the Seller's financial liability for the acts or omissions of the Seller shall be limited to its employees and agents.

15.1.1 any breach of the Contract;

15.1.1 any breach of the Contract;

15.1.2 any use made of the Goods by the Buyer of the Seller's intellectual property;

15.1.2 any use made of the Goods by the Buyer of the Seller's intellectual property;

15.1.3 any representation or negligence of the Seller.

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15.2 All warranties, conditions, and terms (save for the conditions, warranties, and terms are, to the fullest extent possible, excluded from the Contract.

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15.3 Nothing in these Terms shall limit or exclude the Seller's liability for death or personal injury.

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15.3.1 for death or personal injury caused by the Seller's negligence;

15.3.1 for death or personal injury caused by the Seller's negligence;

15.3.2 for any material breach of the Contract or attempt to exclude or limit the Seller's liability;

15.3.2 for any material breach of the Contract or attempt to exclude or limit the Seller's liability;

15.3.3 for fraud or fraudulent misrepresentation.

15.3.3 for fraud or fraudulent misrepresentation.

15.4 Subject to sub-Clause 15.4.1, the Seller's liability for death or personal injury shall be limited to the Seller's liability for death or personal injury.

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15.4.1 the Seller's liability for death or personal injury shall be limited to the Seller's liability for death or personal injury.

15.4.2 the Seller shall not be liable for any pure economic loss, loss of profit, loss of goodwill or otherwise, in each case which is not a direct consequence of the Seller's negligence or otherwise (howsoever caused) which arise out of the Contract.

15.4.2 the Seller shall not be liable for any pure economic loss, loss of profit, loss of goodwill or otherwise, in each case which is not a direct consequence of the Seller's negligence or otherwise (howsoever caused) which arise out of the Contract.

16. Confidentiality, Publication

16.1 The Buyer undertakes to keep confidential the Seller's confidential information.

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16.1.1 the Buyer will not disclose the Seller's confidential information to any third party without the Seller's prior written consent, except as may be required by law or by reason of the Seller's obligations to its employees and agents.

16.1.1 the Buyer will not disclose the Seller's confidential information to any third party without the Seller's prior written consent, except as may be required by law or by reason of the Seller's obligations to its employees and agents.

16.1.2 the Buyer will not use the Seller's confidential information for any purpose other than the purpose for which it was provided.

16.1.2 the Buyer will not use the Seller's confidential information for any purpose other than the purpose for which it was provided.

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by the Seller upon any premises,
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other manner whatsoever unless
authorised in writing by the Seller
licensors;

16.1.3 the Buyer w
with this Cla

endeavours to ensure compliance
d agents.

16.2 The provisions of th

the termination of the Contract.

17. Notices

17.1 All notices under t
deemed duly given
authorised officer of

tions shall be in writing and be
y giving the notice or by a duly

17.2 Notices shall be de

given:

17.2.1 when delive
registered m

ier or other messenger (including
ss hours of the recipient; or

17.2.2 when sent,
return receipt

l and a successful transmission

17.2.3 on the fifth
ordinary ma

g mailing, if mailed by national

in each case addre
to the other Party.

address or e-mail address notified

17.3 Communications ac
<<insert name>>.

shall be marked for the attention of

18. Force Majeure

18.1 Neither Party to t
performing their obl
that is beyond the
are not limited to:
action, civil unrest,
war, governmental
Party in question.

able for any failure or delay in
re or delay results from any cause
t Party. Such causes include, but
Service Provider failure, industrial
quakes, acts of terrorism, acts of
t that is beyond the control of the

18.2 The provisions of s
action where such a

ot apply with respect to industrial
by the Party so incapacitated.

18.3 If and when the per
months>> then the
first agree otherwise

xceeds <<insert time period e.g. 6
cally terminate unless the Parties

19. No Waiver

The Parties agree that no
provision in these Terms
subsequently enforce tha
Conditions. Such failure s

o enforce the performance of any
onstitute a waiver of the right to
r provision of these Terms and
be a waiver of any preceding or

