



## 1. Interpretation

In these Conditions:

**BUYER** means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.

**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 and the Seller

**CONTRACT** means the contract for the purchase and sale of the Goods.

**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 George Utz Limited (registered in England and Wales under number 02352523) of Grange Close Clover Nook Industrial Estate Alfreton Derbyshire DE55 4QT.

**WRITING** includes email, facsimile transmission and comparable means of communication.

Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

The headings in these Conditions are for convenience only and shall not affect their interpretation.

## 2. Basis of the sale

- 2.1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written 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 quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer
- 2.2. No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller
- 2.3. The Seller's employees or agents are not authorised to make 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 any such representations which are not so confirmed.
- 2.4. 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 Buyers 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 in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller 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 providing the Seller with any necessary information relating to the Goods within 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 in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 3.4. If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person resulting from the Seller's use of the Buyer's specification.



- 3.5. 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.
- 3.6. 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 the goods**

- 4.1. The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply. All prices quoted are valid for 7 days only or until earlier acceptance by the Buyer, after which time the Seller may alter them without giving notice to the Buyer.
- 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 due to factors beyond the Seller's control, including but not limited to foreign exchange fluctuations, currency regulation, alteration of duties, or significant increases in the costs of labour, materials or manufacture.
- 4.3. The Seller may also increase the price to reflect any change in delivery dates, quantities or specifications requested by the Buyer, or any delay caused by instructions from the Buyer or failure by the Buyer to provide adequate information or instructions.
- 4.4. Unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.
- 4.5. The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
- 4.6. The cost of pallets and returnable containers may be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

#### **5. Terms of payment**

- 5.1. Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods.
- 5.2. Where the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or has tendered delivery.
- 5.3. The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled but without any other deduction) within 30 days of the date of the Seller's invoice.
- 5.4. The Seller shall be entitled to recover the price notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer.
- 5.5. Time of payment shall be of the essence of the Contract.
- 5.6. 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:
  - 5.6.1. Cancel the Contract or suspend any further deliveries to the Buyer.
  - 5.6.2. Appropriate any payment made by the Buyer to such Goods (or goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit.
  - 5.6.3. Charge interest on the amount unpaid at the rate of 8 per cent per annum above the Bank of England base rate from time to time until payment in full is made.



## **6. Delivery**

- 6.1. Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises after the Seller has notified the Buyer that the Goods are ready for collection, or by the Seller delivering the Goods to another agreed place.
- 6.2. Any dates quoted for delivery are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused.
- 6.3. Time for delivery shall not be of the essence of the Contract unless previously agreed in Writing by the Seller.
- 6.4. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.5. Where delivery of the Goods is to be made in bulk, the Seller reserves the right to deliver up to 10 per cent more or 10 per cent less than the quantity ordered.
- 6.6. The Seller reserves the right to deliver the Goods in instalments, each instalment constituting a separate contract.
- 6.7. If the Seller fails to deliver the Goods for any reason other than a cause beyond its reasonable control, the Seller's liability shall be limited to the difference between the cost of replacement goods and the contract price.
- 6.8. If the Buyer fails to take delivery of the Goods, the Seller may:
  - 6.8.1. Store the Goods and charge the buyer for reasonable storage costs' or
  - 6.8.2. Sell the Goods and charge the buyer for any shortfall below the contract price.

## **7. Risk & Property**

- 7.1. Risk of damage to or loss of the Goods shall pass to the Buyer:
  - 7.1.1. When the Goods are made available for collection at the Seller's premises; or
  - 7.1.2. At the time of delivery where delivery is arranged somewhere else.
- 7.2. Property in the Goods shall not pass to the Buyer until the Seller has received payment in full.
- 7.3. Until ownership passes, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee.
- 7.4. The Seller may require the Buyer to deliver up the Goods if payment has not been made.
- 7.5. The Buyer shall not pledge or charge the Goods as security for any indebtedness while they remain the property of the Seller.

## **8. Warranties & Liabilities**

- 8.1. The Seller warrants that the Goods will correspond with their specification and be free from defects for six months from initial use or delivery, whichever occurs first.
- 8.2. The warranty does not apply to defects arising from:
  - 8.2.1. Buyer supplied designs or specifications.
  - 8.2.2. Fair wear and tear, negligence or misuse.
  - 8.2.3. Failure to follow instructions.
  - 8.2.4. Unauthorised alteration or repair.
- 8.3. All other warranties implied by law are excluded to the fullest extent permitted.
- 8.4. Consumer statutory rights remain unaffected.
- 8.5. Claims for defects must be notified within 7 days of delivery or discovery.
- 8.6. The Seller may replace defective goods or refund the purchase price.



8.7. The Seller shall not be liable for indirect or consequential losses.

8.8. The Seller shall not be liable for delays or failures caused by events beyond its reasonable control.

**9. Indemnity**

9.1. The Seller shall indemnify the Buyer against claims that the Goods infringe intellectual property rights.

9.2. This indemnity applies provided the Seller controls proceedings and the Buyer cooperates.

9.3. The Buyer must not settle claims without the Seller's consent.

9.4. The Buyer must mitigate losses where reasonably required.

**10. Insolvency of Buyer**

10.1. This clause applies if the Buyer becomes insolvent, bankrupt, or enters administration.

10.2. If applicable, the Seller may cancel the Contract or suspend deliveries.

10.3. Any unpaid amounts shall become immediately due.

**11. Tools**

11.1. The Seller shall not be liable for indirect losses relating to tools provided by the Buyer.

11.2. Tools not provided by the Buyer remain the property of the Seller.

**12. General**

12.1. The Seller may perform obligations through other companies in its group.

12.2. Notices shall be given in Writing to the registered office or principal place of business.

12.3. No waiver of breach shall constitute waiver of any subsequent breach.

12.4. If any provision is invalid, the remaining provisions remain enforceable.

12.5. Disputes shall be referred to arbitration by a single arbitrator appointed by agreement or nominated by the President of the Law Society of England and Wales.

12.6. The Contract shall be governed by the laws of England.

12.7. The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply.