

## **STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS**

### **1. Definitions**

<b>Buyer</b>	the person or Company that buys or agrees to buy the goods from the Seller
<b>Conditions</b>	the terms and conditions of sale as set out in this document and any special terms and conditions agreed in writing by the Seller
<b>Goods</b>	the articles which the Buyer agrees to buy from the Seller
<b>Price</b>	the price for the Goods, excluding VAT
<b>Seller</b>	Progetti Italiani LLP

### **2. Conditions**

- 2.1 These Conditions shall form the basis of the contract between the Seller and the Buyer in relation to the sale of Goods, to the exclusion of all other terms and conditions including the Buyer's standard conditions of purchase or any other conditions which the Buyer may purport to apply under any purchase order or confirmation of order or any other document.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods from the Seller pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods shall be deemed to be conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.4 These Conditions may not be varied except by the written agreement of the Seller.
- 2.5 These Conditions represent the whole of the agreement between the Seller and the Buyer. They supersede any other conditions previously issued.

### **3. Price**

The Price shall be the price quoted on the Seller's confirmation of order. The Price is exclusive of VAT which shall be due at the rate in force on the date of the Seller's invoice.

### **4. Payment and Interest**

- 4.1 Standard payment terms are:
  - 50% of total monies due on acceptance by the Seller of the Buyer's order
  - 50% on notification by the Seller to the Buyer that the goods are ready for despatchShould the Seller's written quotation or invoice state otherwise then these terms are superseded.
- 4.2 Payment of the Price and VAT shall be due on receipt by the Buyer of the Seller's invoices.
- 4.3 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:-
  - 4.3.1 cancel the order or suspend any further deliveries to the Buyer;
  - 4.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
  - 4.3.3 charge the Buyer interest on the amount unpaid, calculated on a daily basis at the rate of five per cent per annum above the National Westminster Bank plc base rate from time to time in force, until payment in full is made. Such interest shall accrue after as well as before any judgment.

4.4 The Buyer shall pay all accounts in full and not exercise any rights of set-off or counter-claim against invoices submitted by the Seller.

## **5. Buyer's Default**

The Seller may at its discretion suspend or terminate the supply of any Goods if the Buyer fails to make any payment when and as due or otherwise defaults in any of its obligations under the Contract or any other agreement with the Seller or becomes insolvent, has an administrative receiver appointed of its business or is compulsorily or voluntarily wound up or ceases or threatens to cease trading or the Seller bona fide believes that any of those events may occur, and in case of termination may forfeit any deposit paid.

## **6. Goods**

- 6.1 The quantity and description of the Goods shall be as specified in the Seller's confirmation of order.
- 6.2 Estimates and Quotations are submitted by the Seller based on information supplied by the Buyer. The Seller accepts no responsibility for the accuracy of quantities estimated by the Buyer.
- 6.3 If the Goods are manufactured in accordance with any design or specification provided or made by the Buyer the Buyer shall compensate the Seller in full on demand for all claims, expenses and liabilities of any nature in connection with them, including any claim, whether actual or alleged, that the design or specification infringes the rights of any third party.
- 6.4 Except for any which is expressly agreed to be included in the Goods, all tools, patterns, materials, drawings, specifications and other data provided by the Seller shall remain its property and all technical information, patentable or unpatentable, copyright and registered designs arising from the execution of any orders shall become the property of the Seller.

## **7. Warranties**

The Seller warrants that the Goods will at the time of delivery correspond to the description given by the Seller in the confirmation of order. Except where the Buyer is dealing as a consumer (as defined in section 12 of the Unfair Contract Terms Act 1977), all other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Goods are excluded to the maximum extent permitted by law.

## **8. Extent of Liability**

- 8.1 The Seller shall have no liability to the Buyer for any loss (including loss of profit or other economic loss (direct or indirect), indirect or consequential loss) or damage of any nature (howsoever caused) or loss or damage (contractual, tortious, breach of statutory duty or otherwise) arising from any breach of any express or implied warranty or condition of the Contract or any negligence, breach of statutory or other duty on the part of the Seller or in any other way out of or in connection with the performance or purported performance of or failure to perform the Contract except:
- for death or personal injury resulting from the Seller's negligence;
  - fraudulent misrepresentation; and
  - as expressly stated in these conditions.
- 8.2 If the Buyer establishes that any Goods have not been delivered, have been delivered damaged, are not of the correct quantity or do not comply with their description the Seller shall, at its option, replace with similar goods any Goods which are missing, lost or damaged or do not comply with their description, allow the Buyer credit for their invoice value or repair any damaged Goods.
- 8.3 If the Buyer establishes that any Goods are defective the Seller shall, at its option, replace with similar goods or repair any defective Goods, allow the Buyer credit for their invoice value or to the extent that the Goods are not of the Seller's manufacture, assign to the Buyer (so far as the Seller is able to do so) any warranties given by the manufacturer of the Goods to the Seller.
- 8.4 The delivery of any repaired or replacement Goods shall be at the Seller's premises or other delivery point specified for the original Goods.

- 8.5 Where the Seller is liable in accordance with this condition in respect of only some or part of the Goods the Contract shall remain in full force and effect in respect of the other or other parts of the Goods and no set-off or other claim shall be made by the Buyer against or in respect of such other or other parts of the Goods.
- 8.6 No claim against the Seller shall be entertained for any defect arising from any design or specification provided or made by the Buyer or in any adjustments, alterations or other work has been done to the Goods by any person except the Seller.
- 8.7 The Seller shall not be liable where any Goods, the Price of which does not include carriage, are lost or damaged in transit and all claims by the Buyer shall be made against the carrier. Replacements for such lost or damaged Goods will, if available, be supplied by the Seller at the prices ruling at the date of despatch.
- 8.8 In no circumstances shall the liability of the Seller to the Buyer under this condition exceed the invoice value of the Goods.
- 8.9 Any accidental or typographical omissions or errors in any quotation, acceptance of offer, invoice or any other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

## **9. Cancellation**

Orders for Goods which have to be made especially for the Buyer will be charged in full unless written notice of cancellation is received not later than 8 weeks before the expected delivery date quoted in the Seller's confirmation of order and manufacture of them or any components for them has not commenced at the date of that notice.

## **10. Delivery of the Goods**

- 10.1 Delivery of the Goods shall be made to the address specified by the Buyer. The Buyer shall make all arrangements necessary to take delivery of the Goods.
- 10.2 The Seller undertakes to use its reasonable endeavours to despatch the Goods by an agreed delivery date, but does not guarantee to do so. Time of delivery shall not be of the essence of the contract.
- 10.3 Where the Goods are to be delivered in instalments, 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.
- 10.4 The Seller shall not be liable to the Buyer for any loss or damage whether arising directly or indirectly from the late delivery or short delivery of the Goods. If short delivery does take place, the Buyer undertakes not to reject the Goods but to accept the Goods delivered as part performance of the contract.
- 10.5 If the Buyer fails to take delivery of the Goods or any part of them on the agreed delivery date, or if the Buyer fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, or, if no specific delivery date has been agreed, when the Goods are ready for despatch, the Seller shall be entitled to store and insure the Goods and to charge the Buyer the reasonable costs of so doing.

## **11. Acceptance of the Goods**

- 11.1 The Buyer shall be deemed to have accepted the Goods 48 hours after delivery to the Buyer.
- 11.2 The Buyer shall carry out a thorough inspection of the Goods upon delivery and shall give written notification to the Seller within 48 hours of delivery of the Goods of any shortages, damages or other discrepancies which a reasonable careful examination would have revealed.

- 11.3 In all cases where defects or shortages are complained of the Seller shall be under no liability in respect thereof unless an opportunity to inspect the Goods is supplied to the Seller before any use is made thereof or any alteration or modification is made thereto by the Buyer.
- 11.4 Where the Buyer has accepted, or has been deemed to have accepted, the Goods the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.
- 11.5 Subject to condition 11.2 and condition 11.3, the Seller shall make good any shortage in the Goods and where appropriate replace any goods which are defective or have been damaged in transport as soon as it is reasonable to do so, but otherwise shall be under no liability whatsoever arising from such shortage, defect or damage.
- 11.6 The Seller will not accept returned goods that are surplus to requirements.

## **12. Title and risk**

- 12.1 Risk shall pass on delivery of the Goods to the delivery address specified by the Buyer or, if the Buyer wrongfully fails to take delivery of the Goods, at the time when the Seller has tendered delivery of the Goods.
- 12.2 Notwithstanding the earlier passing of risk, title in the Goods shall remain with the Seller and shall not pass to the Buyer until the amount due under the invoice for them (including interest and costs) has been paid in full.
- 12.3 Until title passes the Buyer shall hold the Goods as bailee for the Seller and shall keep them properly stored, protected and insured and store or mark them so that they can at all times be identified as the property of the Seller
- 12.4 The Seller may at any time before title passes and without any liability to the Buyer:
- 12.4.1 repossess and use or sell all or any of the Goods and by doing so terminate the Buyer's right to use, sell or otherwise deal in them; and
  - 12.4.2 for that purpose (or determining what if any Goods are held by the Buyer and inspecting them) enter any premises of or occupied by the Buyer.

## **13. Confidentiality, Publications and Endorsements**

- 13.1 The Buyer undertakes to the Seller that:-
- 13.1.1 the Buyer will treat as confidential the contract and all information obtained by the Buyer relating to the business and/or products of the Seller and will not use or disclose to any third party such information without the Seller's prior written consent provided that this undertaking shall not apply to information which is in the public domain other than by reason of the Buyer's default;
  - 13.1.2 the Buyer will not use or authorise or permit any other person to use any name, trademark, logo, or symbol which the Seller is licensed to use or which is owned by the Seller in any manner whatsoever unless such use shall have been previously authorised in writing by the Seller.
- 13.2 This Condition shall survive the termination of the Contract.

## **14. Governing Law and Jurisdiction**

The Contract shall be governed by the laws of England and the parties agree to submit to the exclusive jurisdiction of the English courts.