

Terms and Conditions of Sale

INTERPRETATION In these conditions:-

'THE BUYER' means the person firm or company to whom any quotation is addressed or with whom the Contract is made

'GOODS' means the goods agreed to be sold to a Buyer in accordance with these Conditions

'THE SELLER' means Cotech Trading (GB) Ltd registered in England under number 2671718 and having its Registered office at The Granary, Crowhill Farm, Ravensden Road, Wilden, Bedford MK44 2QS, United Kingdom and its principal place of business at Ronald Close, Woburn Road Industrial Estate, Kempston, Bedford, MK42 7SH, UK.

'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

1) BASIS OF SALE

- a) 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.
- b) All terms and conditions and exceptions referred to by the Buyer or contained in the Buyer's order or in any other document or communication from the Buyer which amend or vary these Conditions are excluded.
- c) No variation to these Conditions shall be binding unless agreed in writing.
- d) The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. The Buyer acknowledges that it does not rely on any such representations which are not so confirmed.
- e) 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 Buyer's own risk, and accordingly The Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- f) Any typographical or other error in any quotation, 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.
- g) Any quotation is given on the basis that no Contract will come into existence until the Seller dispatches an acknowledgement of order to the Buyer. Any quotation is valid for a period stated on such quotation from its date provided the Seller has not previously withdrawn it.

2) ORDERS AND SPECIFICATIONS

- a) No order submitted by The Buyer shall be deemed to be accepted by The Seller until an Acknowledgement in writing is issued by The Seller
- b) The Buyer shall be responsible to The Seller for ensuring the accuracy of the terms of any order submitted by The Buyer, and for giving The Seller any necessary information relating to the Goods within a sufficient time to enable The Seller to perform the Contract in accordance with its terms.
- c) 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).
- d) If the Goods are to be manufactured/repared 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 losses, 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 which results from The Seller's use of The Buyer's specification.
- e) The Seller reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable Civil Aviation, European Aviation Safety Agency, 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.
- f) It is the Buyer's responsibility to ensure that the Goods are suitable for the use the Buyer intends to make of them, having regard to the environment in which they will operate and the assemblies of which they will form and the Seller shall not be liable for any failure of the Goods to operate in such use/environment unless the intended use has been notified by the Buyer to the Seller and the Seller has given written approval.

3) CANCELLATION

- a) No order which has been accepted by The Seller may be cancelled or reduced by The Buyer except with The Seller's written agreement.
- b) The Buyer shall indemnify The Seller in full against all loss, costs and expenses incurred by The Seller as a result of any cancellation or reduction.

4) PRICE OF THE GOODS

- a) 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 agreed in writing by The Seller at the date of acceptance of the order.
- b) The Seller reserves the right, by giving notice to The Buyer at any time before delivery, to increase the price of the Goods to:
 - i) reflect any increase in the cost to The Seller which is due to any factor beyond the reasonable control of The Seller (for example, foreign exchange fluctuation, increase in the costs of labour, materials or manufacture);
 - ii) reflect any change in delivery dates, quantities or specifications for the Goods requested by The Buyer; or
 - iii) Delays caused by The Buyer's instructions or The Buyer's failure to give The Seller adequate information or instructions.
- c) Except 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. The price is exclusive of any applicable Customs and Excise duties, all of which shall be paid by The Buyer.

5) TERMS OF PAYMENT

- a) The Seller shall be entitled to invoice The Buyer for the price of the Goods (and any agreed charges) at the time of dispatch or at any time after delivery of the Goods. 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 (as the case may be) The Seller has tendered delivery of the Goods.
- b) The Buyer shall pay the price of the Goods within 30 days of the Seller's invoice ('the due date'), unless different credit or Pro Forma terms have been agreed by the Seller in writing prior to the Contract. 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. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- c) 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 cancel the Contract or suspend any further deliveries to The Buyer and/or charge interest on the amount unpaid, at the rate set for late payment by the Late Payment of Commercial Debts (interest) Act 1998 where the Buyer is acting in the course of a business and in other cases at the rate of 5% per annum above the current National Westminster Bank plc base rate.
- d) All payments shall be made in the currency of the Contract into such bank account as the Seller shall detail on its Invoice. No payment shall be deemed to have

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been received until the Seller has received cleared funds.

- e) The Buyer shall make all payments due under this Contract without any deduction, including bank charges, whether by way of set-off, counterclaim or otherwise unless agreed by the Seller in writing. The Seller may appropriate any payment made by the Buyer to such of the Goods as the Seller thinks fit despite any purported appropriation by the Buyer.

6) DELIVERY

- a) Delivery of the Goods shall be made by The Buyer collecting the Goods at The Seller's premises at any time after The Seller has notified The Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by The Seller, by The Seller delivering the Goods to that place.
- b) Any dates quoted for delivery of the Goods are approximate only and The Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract.
- c) Each delivery constitutes a separate contract and failure of any delivery shall not vitiate the Contract as to other deliveries.
- d) If The Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond The Seller's reasonable control or The Buyer's fault, and The Seller is liable to The Buyer under these Conditions, The Seller's liability shall be limited to the Contract price for the delayed Goods.
- e) If The Buyer fails to take delivery of the Goods or fails to give The Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond The Buyer's reasonable control or by reason of The Seller's fault) then, without prejudice to any other right or remedy available to The Seller, The Seller may store the Goods until actual delivery and charge The Buyer for the reasonable costs (including insurance) of storage or sell the Goods at the best price readily obtainable and (after deducting all reasonable storage, restocking and selling expenses) account to The Buyer for the excess over the price under the Contract or charge The Buyer for any shortfall below the price under the Contract.
- f) Goods for delivery to locations in the UK will not be insured unless specified by the Seller.
- g) Forthwith after delivery of the Goods the Buyer will examine and inspect the Goods.

7) RISK/OWNERSHIP

- a) Risk of damage to or loss of the Goods shall pass to The Buyer when:-
- i) Goods to be delivered at The Seller's premises: upon The Seller notifies The Buyer that the Goods are available for collection;
 - ii) Goods to be delivered otherwise than at The Seller's premises: at the time of delivery or, if The Buyer wrongfully fails to take delivery of the Goods, the time when The Seller tenders delivery.
- b) Title and property in the Goods shall not pass to The Buyer until The Seller has full payment of the price of the Goods and all other goods agreed to be sold by The Seller to The Buyer for which payment is then due.
- c) Until such time as the property in the Goods passes to The Buyer, The Buyer shall hold the Goods as The Seller's Bailee, and shall keep the goods separate from those of The Buyer and third parties and properly stored, protected and insured and identified as The Seller's property, but The Buyer shall be entitled to resell or use the Goods in the ordinary course of its business.
- d) Until such time as the property in the Goods passes to The Buyer (and provided the Goods are still in existence and have not been resold), The Seller shall be entitled at any time to require The Buyer to deliver up the Goods to The Seller and, if The Buyer fails to do so forthwith, to enter upon any premises Of The Buyer or any third party where the Goods are stored and repossess the Goods.
- e) The Buyer shall not be entitled to in any way charge by way of security any of the Goods which remain the property of The Seller, but if The Buyer does so all moneys owing by The Buyer to The Seller shall (without prejudice to any other right or remedy of The Seller) forthwith become due and payable.

8) WARRANTIES AND LIABILITY

- a) Subject to the other provisions of these Conditions, the Seller warrants as follows:
- i) In the case of new Goods supplied by the Seller, where the seller is not the manufacturer of the Goods, the Buyer shall be entitled to such assignable benefits of those warranties or guarantees (if any) as have been given to the Seller by the manufacturer.
 - ii) In the case of any used, second-hand, overhauled or reconditioned Goods the Buyer shall be entitled to the benefits of such assignable warranties or guarantees (if any) as have been given to the Seller by the overhauler. The Seller shall be under no liability at any time in respect of any defect in such Goods. All sizes, dimensions, capacities and all other information supplied given or quoted by the Seller in relation to such Goods are not warranted correct by the Seller and should be verified by the Buyer.
 - iii) In the case of new Goods manufactured and supplied by the Seller, the Seller warrants that (subject to the other Conditions) upon delivery such Goods will, and for a period of 12 months from the date of delivery be free from defects in materials or workmanship.
- b) The above warranty shall not apply in the following cases:
- i) in respect of any defect in the Goods arising from any drawing, design or specification supplied by The Buyer;
 - ii) in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow The Seller's or other applicable specifications and instructions as to storage, shelf-life, installation, commissioning use or maintenance, misuse or alteration or repair of the Goods without The Seller's written approval;
 - iii) if the total price for the Goods has not been paid by the due date for payment;
- c) Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- d) Any claim by The Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by The Buyer) be notified to the Seller within 14 days and if the defect is as a result of damage in transit to the Seller and the carrier within 5 days, of:
- i) the date of delivery (where the defect would be apparent to the Buyer upon a reasonable inspection); or
 - ii) The date when the Buyer knew or ought reasonable to have known of the defect (where the defect would not be apparent to the Buyer upon a reasonable inspection). If delivery is not refused, and The Buyer does not notify The Seller accordingly, The Buyer shall not be entitled to reject the Goods and The Seller shall have no liability for such defect or failure, and The Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- e) Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions and the Seller is liable under these Conditions, the Seller shall be entitled to repair or replace the Goods (or the part in question) free of charge or, at The Seller's sole discretion, refund to The Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the buyer.
- f) Except in respect of death or personal injury caused by The Seller's negligence (which if proved is not excluded), The Seller's obligation in clause 8.e) above to repair, replace or refund shall constitute the full extent of The Seller's liability in respect of any loss or damage sustained by The Buyer whether caused by breach of Contract or by misrepresentation or by negligence of The Seller, its employees or agents or arising from any other cause whatsoever and The Seller shall not be liable to The Buyer for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever.
- g) If the Seller so requests, the Buyer shall, at the Seller's expense, return the Goods or the part of such Goods which is defective to the Seller.

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9) **FORCE MAJEURE**

- a) The Seller shall not be liable for delay in or failure to perform any of The Seller's obligations under these Conditions if the delay or failure was due to any cause beyond The Seller's reasonable control (including without limitation Act of God, explosion, flood, tempest, fire or accident, acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental or parliamentary authority including the CAA, EASA, import or export regulations, industrial action, difficulties in obtaining raw materials, goods, labour, fuel, parts or machinery or power failure or breakdown in machinery).

10) **INTELLECTUAL PROPERTY**

- a) The Seller will indemnify The Buyer against all loss, damages, costs and expenses awarded against or incurred by The Buyer in connection with any claim that the Goods infringe or that their use or resale infringes the patent, copyright, trade mark or other intellectual property rights of any other person. This indemnity shall not apply to any infringement which is due to the Seller following or using any drawing, design or specification supplied by The Buyer or to the use of such Goods in a manner or for a purpose or in a foreign country not specified or disclosed to The Seller prior to The Seller making a quotation or to the use of such Goods in association or combination with any other article material or service not supplied by The Seller.
- b) The indemnity contained in Clause 10) a) above is conditional on The Buyer giving the Seller the earliest possible notice in writing of any claim being made or action threatened or brought against The Buyer, the Seller being given control of proceedings or negotiations in connection with any claim and except pursuant to a final award, The Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of The Seller (which shall not be unreasonably withheld).

11) **INSOLVENCY OF THE BUYER AND TERMINATION**

- a) Clause 11)c) applies if:
 - i) The Buyer makes any voluntary arrangement with its creditors, becomes bankrupt, subject to an administration order, goes into liquidation, or ceases or threatens to cease, to carry on business;
 - ii) an administrative receiver or manager is appointed of any property or assets of The Buyer;
 - iii) The Seller reasonably apprehends that any of the events mentioned above are about to occur in relation to The Buyer and notifies The Buyer accordingly.
 - iv) The Buyer suffers or allows any execution whether legal or equitable to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations or duties under the Contract or any other contract between the Seller and the Buyer.
- b) If this clause applies then, without prejudice to any other right or remedy available to The Seller, the Seller shall be entitled to terminate the Contract or suspend any further deliveries under the Contract without any liability to The Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- c) The termination of the Contract howsoever arising shall be without prejudice to the rights and duties of either the Buyer or the Seller accrued prior to termination.

12) **EXPORT TERMS**

- a) In these Conditions 'Incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made.
- b) Where the Goods are supplied for export from the UK, the provisions of this clause 12 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- c) The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them and for notifying the Seller in writing of any importation requirements.
- d) Unless otherwise agreed in writing between The Buyer and the Seller, the Goods shall be delivered ex works and the cost thereafter will be charged to the account of The Buyer. The Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act.
- e) Unless otherwise agreed in writing between The Buyer and The Seller, the Seller shall inspect the Goods before shipment. The Seller shall have no liability for any claim in respect of any damage to the Goods during transit.

13) **GENERAL**

- a) If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- b) These Conditions do not affect the statutory rights of the consumer.
- c) The Contract shall be governed by English law and The Buyer agrees to submit to the exclusive jurisdiction of the English courts.
- d) No waiver by the Seller of any breach of the Contract by The Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.