

STANDARD CONDITIONS OF SALE

1. Definitions

In these conditions 'the Company' means ZODION LIMITED, 'the Buyer' means any company, firm or individual from whom the Company receives an order which the Company has accepted in writing. 'The Goods' means the products, materials and / or services to be supplied by the Company.

2. Entire Agreement

2.1 The Company accepts orders for the supply of Goods subject only to these conditions. The Buyer accepts that these conditions shall govern relations between himself or itself and the Company to the exclusion of any other terms including without limitation conditions and warranties (written or implied) even if contained in any of the Buyer's documents which purport to provide that the Buyer's own terms shall prevail.

2.2 No agent, distributor, dealer or representative appointed by or representing the Company is authorised to make or give any representation or warranty or enter into any commitment on behalf of the Company not in accordance with these terms and conditions unless the same is confirmed in writing by the Company.

3. Quotations and Acceptance

3.1 Quotations (whether in writing or oral) do not constitute an offer by the Company and no order placed with the Company shall result in a binding contract until accepted by the Company in writing. The Company may at any time refuse to accept any order placed at its sole discretion.

3.2 Any order must be accompanied by all information required to enable the Company to commence performance of the contract after the Company has accepted the order. The Buyer warrants that all information supplied to the Company by the Buyer, its agents, sub-contractors or employees shall be correct and accurate and comprehensive for the purpose of performance of the contract and hereby indemnifies the Company against any and all costs, losses, expenses, damages and fees incurred by the Company whether directly or indirectly as a result of breach of this warranty.

4. Prices (Variations)

4.1 Notwithstanding any offer quotation tender price or price list all prices are subject to alterations without notice and Goods shall be sold ex-works (as defined Incoterms1980 edition) at the prices ruling at the date of despatch.

4.2 All prices include delivery unless otherwise stated and are quoted exclusive of Value Added Tax (VAT) and any other duty, tax or surcharge (collectively referred to as "Taxes") and VAT and any appropriate Taxes shall be added to all invoices at the rate applicable on the tax point date which date shall be the date of the invoice.

5. Packing

5.1 Unless otherwise specified in the Company's quotation all packing materials are not included in the contract price.

5.2 The manner of packing shall be at the discretion of the Company. No liability will be accepted for failure to pack to any particular standard or against any particular risks unless the requirements for such packing are specifically brought to the attention of the Company and accepted by it and paid for by the Buyer.

6. Illustrations Descriptive Matter and Dimensions

All descriptions, illustrations, specifications, drawings and particulars contained in the Company's catalogues, price lists, and other advertisement matter are intended merely to present a general idea of the goods described therein, and none of these shall form part of any contract.

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7. Delivery

- 7.1 Delivery shall mean delivery ex-works to the Company's factory / premises (as defined in INCOTERMS 1980 edition)
- 7.2 The Company reserves the right to delivery Goods by instalments and in such event each instalment shall be treated as a separate contract provided that deliveries of further instalments may be withheld until the Goods comprised in earlier instalments have been paid for in full.
- 7.3 If the Company does not receive forwarding instructions sufficient to enable despatch to be made within 14 days after notification that the Goods are ready for delivery the Buyer shall be deemed to have taken delivery on the fourteenth day after such notification and the Company may without prejudice to any other right, at its option arrange for storage of the Goods at the premises of the Company or elsewhere as the Company may determine at the cost of the Buyer and/or may at any time thereafter dispose of the Goods at the best price reasonably available.
- 7.4 Any periods of time quoted or accepted by the Company for despatch delivery or completion of the Goods are to be treated as estimates only, not involving the Company in any liability to the Buyer in respect of any loss suffered or expense incurred as a result of failure to perform the contract in any way within any such period and for the avoidance of any doubt no delay of whatsoever nature shall entitle the Buyer to cancel the order or refuse to accept delivery or in any other way fail to perform an obligation on its part hereunder at any time.

8. Payment

- 8.1 All invoices sums shall be payable on demand and in any event shall be paid in full not later than 30 days after the date of delivery of the Goods.
- 8.2 Where only part of the Goods are despatched, payment shall be made of the contract price attributable to that part.
- 8.3 In the event of any delay(s) in delivery attributable to the Buyer's actions or failure to act, the Buyer shall make payment to the Company in accordance with this clause 8 as if the Goods had been delivered at the time(s) at which best for such delay(s) such delivery would have taken place.
- 8.4 No cash or other discount shall be allowed unless specified to the contrary for the face hereof.
- 8.5 The Company reserves the right to charge interest on late payment at a rate of 3 percent per annum above base rate quoted by Barclays plc from time to time on the daily balance due from the due date until payment in full is made and to charge the cost of effecting collections of outstanding accounts to the Buyer's account.
- 8.6 If any payment under any contract between the Company and the Buyer falls into arrears the Company shall have the right to cancel or postpone performance of the contract under which payment is due and any other contract between the parties wholly or in part and to be paid immediately for performance of any such contract to date.
- 8.7 The Buyer shall not be entitled to any set-off of obligations within or between contracts with the Company.

9. Risk and Title

- 9.1 Whilst risk in the Goods supplied to the Buyer under the contract shall pass on delivery, legal and beneficial ownership of the Goods shall remain with the Company until such time as the Company has received payment in full for all Goods supplied to the Buyer or until such time as the Goods are sold to the Buyer's customers by way of bona fide sale at full market value (whichever shall be the earlier) and until such time the Buyer shall keep such Goods separate from its property and clearly identified as the property of the Company.
- 9.2 Notwithstanding the terms of payment specified herein or elsewhere payment for all Goods supplied to the Buyer shall become due immediately upon the commencement of any act or proceeding in which the Buyer's solvency is involved (whether voluntary or upon application to any court) or upon appointment of a receiver over the whole or any part of the Buyer's assets or undertaking and upon such occurrence the power of sale granted to the Buyer above shall automatically determine.
- 9.3 If payment for any Goods is overdue whether in whole or in part and any Goods have been delivered to the Buyer the Company may without prejudice to any of its other rights enter upon the Buyer's premises to recover and/or resell the Goods or such of them as the Company in its absolute discretion may designate as necessary to recover the amount of payment overdue and the Company's reasonable costs incurred in giving effect to its rights hereunder and for these purposes the Buyer irrevocably authorises the Company to enter and take all necessary and reasonable steps upon the premises of the Buyer.

- 9.4 Until the Company is paid in full for all Goods supplied the Buyer is and shall remain a fiduciary for the Company in respect of the Goods and if the Buyer sells or allows to be sold the Goods for the proceeds of sale shall be held in a separate clearly identifiable account and the beneficial interest of the Company shall attach to the proceeds of sale and the Company shall have the right to trace such proceeds of sale.
- 9.5 If any of the Goods are incorporated or used in other products before full payment for all Goods supplied under the contract has been made title of such products shall be and remain with the Company until full payment has been made or such products have been sold and all of the above provisions of this clause shall extend to such products.
10. Damage in transit claims
- 10.1 Notice of any claim relating to shortage or damage to the Goods or delivery of the Goods other than as ordered shall be made, within 72 hours of delivery, in writing to the Company.
- 10.2 The Company will consider claims only if the above conditions are complied with and the claim is signed by the Buyer and accompanied by full particulars including the invoice and Buyer's order number and a copy of the delivery note in respect of the Goods which must bear an appropriately qualified signature.
- 10.3 The Company's liability hereunder shall be limited to the proportion of the contract price attributable to the Goods undelivered or damaged.
11. Instructions
- The Buyer undertakes to ensure that all product data sheets, warnings, notices or instructions concerning the proper application, fitting, servicing or use of the Goods are passed to any subsequent buyer. The Buyer undertakes that he will observe all recommendations and instructions of the Company to the correct storage and use of the Goods. The Buyer hereby indemnifies and shall hold harmless the Company against any and all losses, costs, expenses and damages howsoever arising as a result of any act or omission by the Buyer in its performance of this obligation.
12. Health and Safety
- The Buyer shall ensure that the Goods are in accordance with any relevant information or advice which the Company may make available to the Buyer and hereby indemnifies the Company in respect of any and all claims arising as a result of any failure on its part in this respect.
13. Guarantee
- 13.1 The Buyer assumes responsibility for the capacity or performance of the Goods being sufficient and suitable for their intended use.
- 13.2 In the event of defective workmanship or materials in the Goods the Company will repair or replace the Goods as the Company deems appropriate provided always that such defect becomes apparent within 12 months from the date of the invoice in respect thereof and is notified promptly in writing to the Company by the Buyer and the Goods which are alleged to be defective are returned carriage paid to the Company for inspection, all subject to the Company being satisfied after being provided with such information as the Company may reasonably require that the defect is not attributable to fair wear and tear, incorrect or defective storage, fitting, installation or use, unauthorised reconditioning or repair, accident, neglect or any cause whatsoever beyond the control of the Company.
- 13.3 Any repair or replacement shall be the limit of damage or loss for which the Company shall be liable, and the Company's liability hereunder shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the Goods.
14. Confidential Information
- 14.1 The Buyer is not authorised to copy publicise or make available to any third party any drawings, specifications, written instructions and other information supplied by the Company hereunder and the same shall remain its property and shall be treated by the Buyer as strictly confidential even after termination of this contract and the same shall be returned to the Company at its demand.
- 14.2 The Buyer may only make available to third parties the confidential information, which is given to it insofar as this is for the purpose of re-sale and use of the Goods.
- 14.3 The foregoing shall not apply to information, which is or becomes public knowledge without fault or failure by the Buyer.

15. Force Majeure

In the event of the Company being delayed in or prevented from performing its obligations hereunder owing to any cause whatsoever beyond the Company's control including without limitation shortages of materials, accidents, strikes, trade and industrial disputes, acts of restraint of government, or other imposition or restrictions, quotas or reviews on exportation and importation, or act of God, the Company shall not be liable for losses, costs, damages or expenses howsoever incurred and shall be at liberty to cancel or suspend the contract without incurring any liability arising there from and the Buyer shall not in any of the foregoing circumstances be entitled to terminate the contract hereunder or to claim damages.

16. Intellectual Property Rights

16.1 The Company shall indemnify the Buyer against any claim for infringement of Letters Patents Registered Design Trade Mark or Copyright (published at the date of the contract) by the use of sale of any of the Goods supplied by the Company to the Buyer against all costs and damages which the Buyer may incur in any action for such infringement or for which the Buyer may become liable in any such action provided always that this indemnity shall not apply to, and the Buyer shall indemnify the Company in respect of, any infringement which is due to the Company having followed a design or instruction furnished or given by the Buyer or the use of such Goods in a manner or for a purpose or in a foreign country not specified by or disclosed to the Company or any infringement which is due the use of such Goods in association or combination with any other goods not supplied by the Company and provided also that this indemnity is conditional on the Buyer giving to the Company the earliest possible notice in writing of any claim being made or action threatened or brought against the Buyer and on the Buyer permitting the Company at its own expense to conduct any litigation that may ensue and all negotiations for a settlement of the claim.

16.2 The Buyer warrants that any design or instruction furnished or given by it shall not be such as will cause the Company to infringe any intellectual property rights owned or enjoyed by any third party and hereby indemnifies the Company in respect of any and all costs expenses losses and damages howsoever arising as a result of any claim of infringement.

17. Tooling

17.1 All tooling, whether made specifically for the Goods or otherwise, shall vest in the Company. The Buyer shall not be exclusively entitled to have any Goods or parts thereof made from any tooling. If the Company makes tooling to the Buyer's design or specification, the Company shall submit to the Buyer samples made from such Tooling. Within 30 days of the submission of such samples the Buyer shall either:

a) approve the use of the tooling in the manufacture of the Goods; or

b) require the Company to, with all reasonable speed, rectify the tooling where it varies from the Buyer's design or specifications. After any such rectification the Company shall resubmit sample parts to the Buyer, and the above provisions shall apply.

17.2 If the Buyer fails to approve or require rectification to the tooling as required above the Company may cancel the contract and the Buyer shall compensate the Company in full for any and all costs, losses and expenses howsoever arising from such cancellation.

17.3 Any Part Tooling Charges as specified in the order acceptance shall be paid in full by the date specified in the order acceptance or, if not so specified, contemporaneously with payment for the first delivery of Goods hereunder.

18. Assignment

This contract shall not be assigned by the Buyer without the prior written consent of the Company but the Company may without consent of the Buyer (but without reducing its obligations hereunder) assign or subcontract all or any of its rights and obligations hereunder.

19. General

19.1 This contract represents the entire agreement between the parties and supersedes all earlier warranties, representations, statements of agreement (whether oral or in writing) and may only be varied or amended in writing between the parties.

19.2 The headings of each provision are intended to be for convenience only and do not effect the interpretation hereof.

19.3 All notices given hereunder of whatsoever nature shall be in writing in the English language (including telex and confirmed tele facsimile transmission) to be effective and shall be deemed to have been given 24 hours after despatch.

19.4 The contract shall be governed by and construed according to English Law and the parties hereto hereby irrevocably submit to the jurisdiction of the English courts.