

1. Application of Conditions

1.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any quotation or offer of the Seller which is accepted by the Buyer, or any order of the Buyer which is accepted by the Seller; and

1.2 These Terms and Conditions shall govern the Contract to the exclusion of any other terms and conditions.

2. Interpretation

2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day” means any day other than a Saturday, Sunday or bank holiday;

“Buyer” means the person who accepts a quotation or offer of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller;

“Contract” means the contract for the purchase and sale of the Goods under these Terms and Conditions to which written confirmation or an order form has been given to the Buyer from the Seller;

“Custom-Made” means goods or items that are designed or made to the Buyers specific requirements;

“Contract Price” means the price stated in the Contract payable for the Goods;

“Delivery Date” means the date on which the Goods are to be delivered as stipulated in the Buyer’s order and accepted by the Seller;

“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 Terms and Conditions;

“Month” means a calendar month; and

“Seller” means AB Trade Supplies means AB Trade Supplies Limited (Company No 06169877) whose registered office is 65 Bells Road, Gorleston On Sea, Great Yarmouth, Norfolk, England, NR31 6AG whose trading premises are at South Denes Road, Great Yarmouth, Norfolk, NR30 3PF and whose VAT Registration Number is 474 1159 47 and includes all employees and agents of A & B Trade Supplies Ltd.

2.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

2.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

2.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

2.2.3 “these Terms and Conditions” is a reference to these Terms and Conditions and any written amended or supplemented written acceptance by the Seller at the relevant time;

2.2.4 a Clause or paragraph is a reference to a Clause of these Terms and Conditions

2.2.5 a “Party” or the “Parties” refer to the parties to these Terms and Conditions.

2.6 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.

2.7 Words imparting the singular number shall include the plural and vice versa.

2.8 References to any gender shall include the other gender.

2.9 Severance any provision of this Contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of this Contract.

3. Basis of Sale

3.1 The Seller’s employees 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, and waives any claim for breach of, any such representations which are not so confirmed.

3.2 No variation to these Conditions shall be binding unless agreed in writing by the Seller.

3.3 Sales literature, price lists and other documents issued by the Seller in relation to the Goods are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. No contract for the sale of the Goods shall be binding on the Seller unless the Seller has accepted an order placed by the Buyer confirmed in writing by the Seller.

4. Orders and Specifications

4.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller.

4.2 The specification for the Goods shall be that set out in the Seller’s order documentation unless varied expressly in the Buyer’s order providing always that such variation(s) has been accepted by the Seller in writing.

4.3 As part of AB Trade Supplies policy of the development of its products improvements or changes are made in design from time to time and AB Trade Supplies reserves the right to supply substitute materials, components and units in place of the products ordered (and which shall become ‘the Goods’ for the purposes of the Order). The Customer will be notified of any substantial changes made to the Goods before they are dispatched.

4.4 Illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Seller are intended as a guide only and shall not be binding on the Seller.

4.5 All specifications as to pattern colour or dimensions are subject to normal tolerance margins.

4.6 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Buyer’s specification, which do not materially affect their quality or fitness for purpose.

4.7 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller on the 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 such cancellation.

5. Custom Made Goods

5.1 If the Goods the Buyer wishes to purchase are Custom-made the Seller will inform the Buyer of this before the order is accepted. Full payment of the price of the Goods will be required on the placing the Buyers order to cover the Sellers costs incurred in manufacturing the Goods.

5.2 The Seller offers no refunds in any case where Custom-made goods are supplied as the Seller is unable to reuse or resell the product (the item having been specially made for the Buyer and in accordance with their customised design or requirement). 5.3 Where The Seller makes or supply’s Custom-made goods there is no resale value for the reasons set out in clause 5.2 above and the Seller is not required to accept returns unless the material or products used to make the Goods are defective. For the avoidance of doubt defective means defective material used in the making of the Goods and not defective in the Buyers design which at all times remains at the Buyers risk and liability from acceptance of the order.

6 Price and Payment

6.1 The Price shall be the price set out on the order or acceptance Form or any written variation to this together with carriage, packing, insurance (if applicable) and VAT.

6.2 The Seller is not obliged to accept orders from any customer or buyer who has not supplied the Seller with references satisfactory to the Seller. If at any time the Seller is not satisfied as to the creditworthiness of the Buyer it may give notice in writing to the Buyer that no further credit will be allowed to the Buyer in which event no further goods will be delivered to the Buyer or collected from the Seller other than against cash payment and notwithstanding sub-Clause 6.4 of these conditions, all amounts owing by the Buyer to the Seller shall be immediately payable in cash.

6.3 The Seller reserves the right, by giving written 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 which is due to any factor beyond the control of the Seller (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which are requested by the Buyer, or any delay

caused by any Instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

6.4 Payment of the Price shall be due within 28 days of the date of the invoice. Time for payment shall be of the essence.

6.5 Payment remains due where the Buyer wrongfully fails to take delivery of the Goods, in which event 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 or caused to be tendered delivery of the Goods to the Buyer.

6.6 The Buyer shall not refuse to pay any amount owing to the Seller where there is only a minor or inconsequential defect or error in the Goods.

6.7 The Buyer shall not withhold payment of any invoice or other amount due to the Seller by reason of any right of set off or counterclaim which the Buyer may have or alleges to have or for any reason whatsoever.

6.8 All payments shall be made to the Seller as indicated on the form of acceptance or invoice issued by the Seller.

7 Late Payment

7.1 Should payment not be made in accordance with the provisions of Clause 6 above the Seller may:

7.2 Charge a daily rate of interest on overdue invoices from the date payment becomes due until the date of payment at a rate of 4% above Barclays Bank plc's base rate from time to time in force or, if higher, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 where such interest shall accrue at 8% above the Bank of England base rate continuing before and after any judgment until settlement;

7.3 Disallow any discount which the Seller may have given the Buyer with the full sum becoming immediately payable on demand; and/or

7.4 Suspend supplying the Goods or any further Goods until the Customer makes payment in full including any interest accrued.

8. Delivery

8.1 Delivery of the Goods shall be made by the Seller delivering the Goods to the place specified in the Buyer's order on the Seller's acceptance of the location to which the Goods are to be delivered by the Seller or, if no place of delivery is so specified, 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.

8.2 The Delivery Date is approximate only and time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the Delivery Date upon giving reasonable notice to the Buyer.

8.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Terms and 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.

8.4 If the Buyer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Seller shall be entitled upon giving written notice to the Buyer to store or arrange for the storage of the Goods and then notwithstanding the provisions of sub-Clause 10.1 risk in the Goods shall pass to the Buyer, delivery shall be deemed to have taken place and the Buyer shall pay to the Seller all costs and expenses including storage and insurance charges arising from such failure.

9 Acceptance of the Goods and Returns

9.1 The Buyer or their agent shall inspect the Goods immediately upon delivery and shall notify the carrier of any apparent damage when signing for the Goods or the Customer shall be deemed to have accepted any such damage.

9.2 Where the Goods cannot be examined the carriers note or other such note as appropriate should be marked "not examined".

9.3 The Seller shall be under no liability for any damage or shortages that would be apparent on reasonable inspection.

9.4 The Buyer shall within 5 Business days give notice in writing to the Seller of any matter or reason they allege that the supplied Goods are not in accordance with the Contract. Should the Buyer fail to give such notice they shall be deemed to have accepted the Goods.

9.5 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.

9.6 Subject to sub-Clauses 9.3 and 9.4, the Seller shall make good any shortage in the Goods and where appropriate replace any Goods damaged in transit as soon as it is reasonable to do so, but otherwise shall be under no liability whatsoever arising from such shortage or damage.

9.7 After acceptance the Buyer shall not be entitled to reject Goods which are not in accordance with the Contract.

9.8 Where the Buyer accepts or has been deemed to have accepted any Goods the Seller shall have no liability whatever to the Buyer in respect of those Goods.

10. Risk and Retention of Title

10.1 Risk of damage to or loss of the Goods shall pass to the Buyer at:

10.1.1 At the time when the Seller notifies the Buyer that the Goods are available for collection; or

10.1.2 in the case of Goods to be delivered (even if otherwise than at the Seller's premises), the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller attempted to tender delivery of the Goods.

10.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Terms and Conditions, legal and beneficial title of the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods.

10.3 Notwithstanding Sub-Clause 10.2 legal and beneficial title of the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and any other goods supplied by the Seller to the Buyer has repaid all moneys owed to the Seller, regardless of how such indebtedness arose.

10.4 Until payment has been made to the Seller in accordance with these Conditions and title in the Goods has passed to the Buyer, the Buyer shall be in possession of the Goods as bailee for the Seller and the Buyer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Seller and shall insure the Goods against all reasonable risks.

10.5 In the event that the Buyer sells or transfers the Goods to a third party before legal and beneficial title has passed to him under these Terms and Conditions, the proceeds of the sub-sale or transfer (or such proportion as is due to the Seller) shall be held by the Buyer on behalf of the Seller. The Buyer shall ensure that such moneys are held separately from, and are in no way mixed with, any other moneys or funds, and that all moneys held on the Seller's behalf are identified as such.

10.6 The Seller may, in accordance with the provisions of the Companies Act 2006, register any charge created by these Conditions.

10.7 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all money owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

10.8 The Seller reserves the right to repossess any Goods in which the Seller retains title without notice. The Buyer irrevocably authorises the Seller to enter into or over the land, buildings or premises owned, occupied or controlled by the Buyer during normal business hours for the purpose of repossessing the Goods in which the Seller retains title or inspecting the Goods to ensure compliance with the storage and identification requirements of sub-Clause 10.4.

10.9 The Buyer's right to possession of the Goods in which the Seller maintains legal and beneficial title shall terminate if;

10.9.1 the Buyer commits or permits any material breach of his obligations under these Conditions;

10.9.2 the Buyer enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986, the Insolvent Partnerships Order 1994 (as amended), or any other scheme or arrangement is made with his creditors;

10.9.3 the Buyer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;

10.9.4 the Buyer convenes any meeting of its creditors, enters into voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed in respect of its assets or undertaking or any part thereof, any documents are filed with the court for the appointment of an administrator in respect of the Buyer, notice of intention to appoint an administrator is given by the Buyer or any of its directors or by a qualifying floating charge-holder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer.

11. Defective Goods

11.1 If on delivery any of the Goods are defective in any material respect and either the Buyer lawfully refuses delivery of the defective Goods or, if they are signed for on delivery as "condition and contents unknown" the Buyer gives written notice of such defect to the Seller within 5 Business Days of such delivery, the Seller shall at its option:

11.1.1 replace the defective Goods within 10 Business Days of receiving the Buyer's notice; or
11.1.2 refund to the Buyer the price for those Goods (or parts thereof, as appropriate) which are defective; but the Seller shall have no further liability to the Buyer in respect thereof and the Buyer may not reject the Goods if delivery is not refused or notice was not given by the Buyer as set out in Sub-Clause 11.1.1 above.

11.2 No Goods may be returned to the Seller without the prior agreement in writing of the Seller. Subject thereto any Goods returned which the Seller is satisfied were supplied subject to defects of quality or condition which would not be apparent on inspection shall either be replaced free of charge or, at the Seller's sole discretion the Seller shall refund or credit to the Buyer the price of such defective Goods but the Seller shall have no further liability to the Buyer.

11.3 The Seller shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to normal conditions, failure to follow the Seller's instructions (whether given orally or in writing), misuse or alteration of the Goods without the Seller's prior approval, or any other act or omission on the part of the Buyer, its employees or agents or any third party.

11.4 Subject as expressly provided in these Terms and Conditions, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

11.5 Except in respect of death or personal injury caused by the Seller's negligence, or as expressly provided in these Terms and Conditions, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law or under statute, or under the express terms of the Contract, for any direct or consequential loss or damage sustained by the Buyer (including without limitation loss of profit or indirect or special loss), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller, its servants or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer.

12 Guarantee

12.1 The Goods are guaranteed for 12 months or such other period as agreed by the parties in the Order Form from the date of purchase

12.2 During the guarantee period the Seller at its absolute discretion may replace parts free of charge provided that the Goods;

12.2.1 are returned to AB Trade Supplies with evidence of purchase and;

12.2.2 have been purchased by the Buyer and not used for hire purposes;

12.2.3 have not been misused or handled carelessly or negligently;

12.2.4 have been regularly maintained and operated correctly in the appropriate environment;

12.2.5 have not been dismantled; and

12.2.6 have not had repairs attempted other than by the Seller.

12.3 Any claim made under this guarantee should be made in a letter setting out the date and place of purchase, and giving a brief explanation of the problem which has led to the claim. This letter should then be sent to the Seller together with the product itself, proof of the purchase date and the relevant sales invoice number. It is essential that the letter of claim reaches the Seller on the last day of the Guarantee at the latest. Late claims will not be considered.

12.4 The Guarantee applies to all goods purchased from the Seller within the United Kingdom. The Guarantee does not confer any rights other than those expressly set out above and does not cover any claims for consequential loss or damage.

13. Limitation of Liability

13.1 any use made (including but not limited to modifications) or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
13.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

13.1.3 all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

13.1.4 the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract Price; and

13.1.5 the Seller shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

14. Assignment

14.1 The Seller may assign the Contract or any part of it to any person, firm or company without the prior written consent of the Buyer.

14.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

15 Notices

15.1 Any notice under or in connection with this Contract shall be in writing and shall be served by first class post or by hand on the party or sent by recorded delivery or to the address of the party set out on the order form or at or to such other address as may be subsequently notified by one party to the other.

15.2 In the absence of evidence of earlier receipt any notice shall be deemed to be duly served:

15.2.1 if delivered personally when left at the address of the Party; or

15.2.2 if sent by recorded delivery 2 days after posting.

16. Force Majeure

Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

17. Waiver

The Parties agree that no failure by either Party to enforce the performance of any provision in these Terms and Conditions or under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

18. Severance

The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions or the Contract are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (and, by extension, the Contract). The remainder of these and the Contract shall be valid and enforceable.

19. Third Party Rights

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

20. Law and Jurisdiction

20.1 These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising there from or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

20.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or to the Contract (including any non-contractual matters and obligations arising there from or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.