

TERMS AND CONDITIONS OF BUSINESS

1. GENERAL

In these conditions 'the Seller' means Jacob (UK) Limited and the 'Buyer' means the person(s) named as the buyer(s) in the Seller's Order Acknowledgement and the 'Goods' means the items specified in the Seller's Order Acknowledgement

(a) Neither the Buyer's acceptance of any quotation or tender of the Seller nor the Buyer's order shall institute a contract until such acceptance of order has been acknowledged by the Seller's Order Acknowledgement Form.

Contracts are made, orders accepted and Goods Delivered by the Seller only upon and subject to these conditions.

No statements, promises or representations of any kind (whether contained in the Seller's sales literature or otherwise) made before, or at the time of giving of any order or the making of the contract and no qualifications or annulment of any of these Conditions contained in the Buyer's order, after acceptance or confirmation of order or in correspondence shall be part of or affect the terms of the contract unless such qualifications or annulment is expressly confirmed in writing by the Seller.

2. NON-ASSIGNABILITY

Every Contract is between the Seller and the Buyer as principals and is not assignable without the consent of the Seller.

3. TERMS OF PAYMENT

Unless otherwise indicated in the Seller's Order Acknowledgement Form the Seller will invoice the Goods when they are available for delivery and payment shall be due 30 days following invoice.

(b) The Seller may demand payment in advance in whole or in part or at the time of delivery/collection.

(c) If the Buyer fails to make any payment within four weeks of the due date for that payment all sums payable to the Seller shall become immediately due for payment without regard to the time of payment of any outstanding bill of exchange or other deferred terms for that other contract.

All moneys are payable in pounds sterling (or in euros) in the amounts shown on the Seller's invoice and are to be paid without any deduction.

Where payment is delayed beyond the date specified for payment the buyer shall pay interest on any sums remaining unpaid at the rate of 4% above base lending rate of Barclays Bank Plc for the time being from the date so specified for payment until date of actual payment until date of actual payment as well after as before any judgement.

4. TITLE

Until payment in full has been received by the Seller of all sums owing or due to the Seller in respect of the Goods the Buyer holds Goods in a fiduciary capacity as bailee for the Seller and:

Legal and beneficial title in the Goods shall remain with the Seller and if the Seller requires the Buyer shall store the Goods in such a way that they are clearly the property of the Seller and shall maintain full insurance cover against loss or damage in respect thereof:

The Seller reserves the right of disposal of each item of Goods and may retake possession thereof at any time and for that purpose may be its servants or agents and enter upon any land or premises occupied by the Buyer.

The Buyer undertakes in relation to each item of the Goods not to remove parts from, add to, modify or otherwise do any work on such Goods without the express prior written permission of the Seller.

If the Buyer incorporates or allows the incorporation of an item of the Goods into other goods in any way, legal and beneficial title to those other Goods, both during the process or incorporation and thereafter shall vest forthwith in the Seller and the Buyer shall hold them in fiduciary capacity as bailee for the Seller. If the Seller so requires the Buyer shall observe the conditions regarding storage in subclause (a) hereof as if such other goods were the goods originally supplied and the Seller reserves the rights regarding disposal, repossession and entry in subclause (b) hereof as if such other goods were the goods originally supplied.

5. LIEN

Until all outstanding invoices rendered to the Buyer by the Seller are paid in accordance with clause 5 above the Seller shall have a general lien (in addition to any other right or remedy open to the Seller) upon any goods of the Buyer from time to time in the Seller's possession or control and the Seller may enforce such lien by selling all amounts then due to the Seller under this contract or otherwise and appropriating the same.

6. DELIVERY

(a) Any delivery time or date named by the Seller is an estimate only and the Seller shall not be liable for the consequences of any delay

(b) If any delivery is delayed by the fault of the Buyer, the Seller may charge the Buyer reasonable storage charges and may, after giving the Buyer reasonable notice, dispose of the goods and recover from the Buyer all losses and expenses howsoever incurred by reason of the Buyer's failure to take delivery.

(c) If any delivery is delayed due to the lack of clear access for placing of the goods, the Seller may charge the Buyer an extra to cover for this delay.

(d) If any delivery is not accepted when delivered in accordance with the Buyer's instructions then the cost involved by the Seller in making other arrangements will be charged to the Buyer as an extra

7. DAMAGE IN TRANSIT

The Buyer before off loading must inspect goods for damage. No claim for damage in transit, shortage of delivery or loss of goods will be entertained unless the delivery ticket is noted 'arrived in damaged condition' or with a statement of the damage or loss and a formal claim is made within three days. Tickets signed 'unexamined' will not be accepted by the Seller as a basis for a claim by the Buyer. Any claim made for damaged goods should state the nature and extent of the damage, not necessarily the money value. The Seller's legal liability in respect of claims under this clause shall be limited to the invoice price of the damaged goods and the Seller shall accept no liability for damage to goods whilst being unloaded by the Buyer its employees or agents.

8. ACCEPTANCE OF THE GOODS

The Goods shall be deemed to have accepted by the Buyer on the date when either:

(i) when delivery has been made to an address in accordance with delivery instructions unless the Seller receives within 15 days of such date written notification with sufficient and valid reasons that the goods do not comply with the contract

(ii) for the purposes of this clause no account shall be taken for additions, minor omissions or defects which do not materially affect the commercial use of the goods.

9. GUARANTEE AND GENERAL LIABILITY

The Seller will at its own expense repair, or at its discretion replace the goods, or any part thereof which are proved, to the reasonable satisfaction of the Seller, to have been defective in material or workmanship at the time of acceptance of the goods by the buyer provided that written notice of each such defect is given to the Seller within twelve months of the delivery of the goods to the Buyer. This period may be extended upon receipt of alternative conditions supplied by the manufacturer.

The equipment is installed and commissioned to the satisfaction of the Seller

The Seller is given full opportunity to investigate and inspect the goods and defective parts thereof

The Seller does not accept responsibility for defects or damage caused or contributed to by

- (i) unsuitable or careless care or handling or faulty erection, installation or assembly or operation by the Buyer (or for any other person other than the Seller or its employees) or
- (ii) normal wear and tear or
- (iii) any alteration additional to or adaptation of the goods made without the written approval of the seller, or
- (iv) defect occurring in or damage caused by goods or parts of goods manufactured by persons other than the Seller (whether supplied separately or incorporated in the goods) except to the extent to which the Seller actually received indemnity without legal expenses from such persons.

The Buyer shall give the Seller such time to effect all such repair and substitutions as the Seller considers necessary to implement this guarantee.

The Seller may refuse to fulfil this guarantee or any part thereof if and so long as the Buyer does not fulfil its contractual obligations under this or any other contract subsisting between the Seller and the Buyer.

10. IMPRINTS

Where the Seller's patents registered designs and copyright features are embodied in the design of goods and imprint to that effect may be affixed and it must not be defaced, obliterated or removed unless otherwise agreed. The Seller shall be entitled to write or affix its name or trade plate on the goods.

11. FORCE MAJEURE

If the performance of the contract or any obligation thereunder is prevented by force majeure, the Seller shall be excused performance provided that the Seller shall use its best endeavours to remove such cause(s) or non-performance and shall continue performance thereunder without delay whenever such cause(s) are removed. For the purpose of these conditions the term Force Majeure includes acts of God, strikes, lock-outs, fire accident, lightning, earth quakes, storms, floods, explosion, war and any other circumstances, whether similar or dissimilar beyond the reasonable control of the Seller.

12. TERMINATION

If the Buyer commits any breach of the terms and conditions of the contract or suffers distress or execution or becomes insolvent or commits an act of bankruptcy, or enters into an agreement or composition with his creditors, or goes or is put into liquidation (other than solely for amalgamation or reconstruction), or if a receiver is appointed over any part of the Buyer's business, the Seller may without prejudice to any rights which may have accrued in him, terminate the Contract summarily by notice in writing.

13. ARBITRATION

These conditions of Sale and any contract arising here under shall in all respects be construed in accordance with the Laws of England. Any dispute which may arise hereunder shall be referred to a single arbitrator in accordance with the Arbitration Act 1996 or any statutory modification or re enactment thereof.

14. VARIATION OF CONDITIONS

No notification of or addition of these conditions of sale shall be effected by the acknowledgement of the Buyer's purchase order containing additional or different provisions.

15. CANCELLATIONS

The Seller will make a charge for cancellation of any Contract by the Buyer after receipt of the Seller's Order Acknowledgement Form.

16. WAIVER

Failure by the Seller to insist upon strict performance of the terms and conditions of this contract shall not be deemed a waiver of any subsequent default hereof.

17. NOTICES

Any and all notices given under this contract shall be in writing and sent by first class post to the registered or principal office of the person to whom it is addressed and shall be deemed to have been received in the case of the Buyer having its registered or principal office in the United Kingdom two working days after the date of posting thereof. In the case of the Buyer having its registered or principal office outside the United Kingdom six working days after the date of posting thereof.

18. RIGHTS OF THIRD PARTIES

For the purposes of the Contracts (Rights of Third Parties) Act 1999, and notwithstanding any other provision of this Agreement this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

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