

TERMS AND CONDITIONS

Application and entire agreement

- 1) These Terms and Conditions will apply to the purchase of the goods detailed in our quotation (**Goods**) by the buyer (**you**) from Prod Act LTD., a company registered in England under number 11809613, (**we** or **us**).
- 2) These Terms and Conditions will be deemed to have been accepted by you when you accept them or the quotation or from the date of any delivery of the Goods or you pay entire or partial invoiced amount (whichever happens earlier) and will constitute the entire agreement between us and you.
- 3) These Terms and Conditions and the quotation (together, the Contract) apply to the purchase and sale of any Goods between us and you, to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

Interpretation

- 1) A "business day" means any day other than a Saturday, Sunday or bank holiday.
- 2) The headings in these Terms and Conditions are for convenience only and will not affect their interpretation.
- 3) Words imparting the singular number include the plural and vice-versa.

Goods

- 1) The description of the Goods is set out in our sales documentation, unless expressly changed in our quotation. In accepting the quotation, you acknowledge that you have not relied upon any statement, promise or other representations about the Goods by us. Descriptions of the Goods set out in our sales documentation are intended as a guide only.
- 2) We can make any changes to the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements.

Price

- 1) The price (Price) of the Goods is set out in our current quotation at the date of your order or such other price as we may agree in writing.
- 2) Any increase in the Price under the clause above will only take place after we have told you about it.
- 3) You may be entitled to discounts. Any and all discounts will be agreed before invoicing. The price set on the invoice cannot be altered and/or amended in any way.
- 4) The Price is agreed on Purchase Order and/or Invoice, accordingly with delivery terms as per INCOTERMS 2010.
- 5) The Price is exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

Cancellation and alteration

- 1) Details of the Goods as described in the clause above (Goods) and set out in our sales documentation are subject to alteration without notice and are not a contractual offer to sell the Goods which is capable of acceptance.
- 2) The quotation (including any non-standard price negotiated in accordance with the clause on Price (above) is valid for a period of 15 days only from the date shown in it unless expressly withdrawn by us at an earlier time.
- 3) Either of us can cancel the order for any reason prior to your acceptance (or rejection) of the quotation.

Payment

- 1) We will invoice you for the Price either:
 - a) on or at any time after delivery of the Goods; or
 - b) where the Goods are to be collected by you (EXW condition as per INCOTERMS 2010 rules) or where you wrongfully do not take delivery of the Goods, at any time after we have notified you that the Goods are ready for collection.
- 2) You must pay the Price within agreed period, up to the due date of our invoice or otherwise according to any credit terms agreed between us.
- 3) You must make payment even if delivery has not have taken place and/or that the title in the Goods has not passed to you.
- 4) If you do not pay within the period set out above, we will suspend any further deliveries to you and without limiting any of our other rights or remedies for statutory interest, charge you interest at the rate of 4% per annum above the base rate of the Bank of England (at the date of final notice) on the amount outstanding until you pay in full.
- 5) Time for payment will be of the essence of the Contract between us and you.

- 6) All payments must be made in as per invoice currency unless otherwise agreed in writing between us. Any payment in other currency, other than invoiced currency, will be subject of payment of currency exchange rate for difference as set by XE.COM (<http://www.xe.com>) for the day when payment was done.
- 7) Any payment done to our accounts will be done as set on the invoice and/or proforma invoice; in any circumstance, any bank fees and/or transfer fees will NOT be paid by and/or deducted from Prod Act LTD. receivable amounts.
- 8) Both parties must pay all amounts due under these Terms and Conditions in full without any deduction or withholding except as required by law and neither party is entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

Delivery

- 1) If agreed on quotation, delivery terms will apply accordingly to INCOTERM 2010, customer is being held responsible for compliance with Incoterm 2010. At any point, Prod Act LTD. cannot be held liable for any kind of damages occurring after release of the goods.
- 2) If you do not specify a delivery address or if we both agree, you must collect the Goods from given location.
- 3) Subject to the specific terms of any special delivery service, delivery can take place at any time of the day and must be accepted at any time between 8 am to 5 pm, local time.
- 4) If you do not take delivery of the Goods we may, at our discretion and without prejudice to any other rights:
 - a) store or arrange for the storage of the Goods and will charge you for all associated costs and expenses including, but not limited to, transportation, storage and insurance; and / or
 - b) make arrangements for the redelivery of the Goods and will charge you for the costs of such redelivery; and/or
 - c) after 10 business days, resell or otherwise dispose of part or all of the Goods and charge you for any shortfall below the price of the Goods.
- 5) If redelivery is not possible as set out above, you must collect the Goods from given location and will be notified of this. We can charge you for all associated costs including, but not limited to, storage and insurance.
- 6) Any dates quoted for delivery are approximate only. We will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond our control or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 7) We can deliver the Goods by instalments, which will be invoiced and paid for separately. Each instalment is a separate contract. Any delay in delivery or defect in an instalment will not entitle you to cancel any other instalment.

Inspection and acceptance of Goods

- 1) It is receiver's responsibility to inspect the Goods on delivery or collection.
- 2) If you identify any damages or shortages, you must inform us in writing within 1 day of delivery, providing details.
- 3) Other than by agreement, we will only accept returned Goods if we are satisfied that those Goods are defective and if required, have carried out an inspection.
- 4) Subject to your compliance with this clause and/or our agreement, you may return the Goods and we will, as appropriate, repair, or replace, or refund the Goods or part of them.
- 5) We will be under no liability or further obligation in relation to the Goods if:
 - a) if you fail to provide notice as set above; and/or
 - b) you make any further use of such Goods after giving notice under the clause above relating to damages and shortages; and/or
 - c) the defect arises because you did not follow our oral or written instructions about the storage, commissioning, installation, use and maintenance of the Goods; and/or
 - d) the defect arises from normal wear and tear of the Goods; and/or
 - e) the defect arises from misuse or alteration of the Goods, negligence, wilful damage or any other act by you, your employees or agents or any third parties.
- 6) You bear the risk and cost of returning the Goods.
- 7) Acceptance of the Goods will be deemed to be upon inspection of them by you and in any event within 1 day after delivery.

Documents

- 1) Prod Act LTD. will provide a standard set of documents, stating the type, kind and value of the products, where applicable. These documents will be provided upon request and is customer and/or his representative duty to ask for such documents.
- 2) Prod Act LTD. will provide support in obtaining documents issued by other entities but will be limited only for information for general use, without being held responsible for any failure which may arise at any time.
- 3) Prod Act LTD. cannot be held responsible if documents issued by other entity:
 - a) cannot be issued and/or
 - b) cannot be obtained and/or

- c) does not comply with the requested format and/or
- d) after Risk and/or Title was transferred to buyer and/or his representative, including any transporter and/or carrier.

Risk and title

- 4) The risk of the Goods will pass to you on completion of delivery.
- 5) Title of the Goods will not pass to you until we have received payment in full (in cash or cleared funds) for:
 - a) the Goods and/or
 - b) any other goods or services that we have supplied to you in respect of which payment has become due.
- 6) Until title to the Goods has passed to you, you must
 - a) hold the Goods on a fiduciary basis as our bailee; and/or
 - b) store the goods separately and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and/or
 - c) keep the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.
- 7) As long as the Goods have not been resold, or irreversibly incorporated into another product, and without limiting any other right or remedy we may have, we can at any time ask you to deliver up the Goods and, if you fail to do so promptly, enter any of your premises or of any third party where the Goods are stored in order to recover them.

Non-Compete

- 1) You understand that all information related to business operations, disclosed under the present Terms and Conditions (such as, but without limitation to our internal personnel, financial information, vendor names or other vendor information, manufacturer names or other manufacturer information, internal services and operational processes, external business contacts), represents our confidential information, which you shall not use or disclose for an unlimited period of time, even after the termination of the sale of the Goods.
- 2) All of the information gathered during the visits of our premises, as they were defined in the present clause, shall also represent confidential information, which you shall not use, nor disclose, either directly or indirectly, for an unlimited period of time, even after the termination of the sale of the Goods.
- 3) You understand that any visit on our premises (including any of the factories or facilities designed for the operation of our business, i.e. manufacturing sites) shall take place solely for the purposes pertained by the present Terms and Conditions, within the contractual and commercial relationship concluded with us.
- 4) You shall not acquire any products or materials directly from our suppliers and/or factories and/or manufacturers and/or direct representatives of such; and understand that all sales of the Goods are performed by us, as sellers, and you understand that we are exclusively mandated to sell Goods under the present agreement.
- 5) You shall not approach or divert any of our suppliers and/or manufacturers and/or factories' representatives and/or third-party agents direct related with our suppliers for the purpose of acquiring Goods or materials.

Termination

- 1) We can terminate the sale of Goods under the Contract where:
 - a) you commit a material breach of your obligations under these Terms and Conditions;
 - b) you are or become or, in our reasonable opinion, are about to become the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors;
 - c) you enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with your creditors; or
 - d) you convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part thereof, any documents are filed with the court for the appointment of an administrator, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of your affairs or for the granting of an administration order, or any proceedings are commenced relating to your insolvency or possible insolvency.

Limitation of liability

- 1) Our liability under the Contract, and in breach of statutory duty, and in tort, misrepresentation or otherwise will be limited to this clause.
- 2) Subject to the clauses above on **Inspection and Acceptance** and **Risk and Title**, all warranties, conditions or other terms implied by statute or common law (save for those implied by Section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.
- 3) If we do not deliver the Goods, our liability is limited to, and subject to the clause below, the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

- 4) In any circumstances, our total liability will not exceed the total amount paid by you as reasonable cost of replacement, less cost of Goods.
- 5) We will not be liable (whether caused by our employees, agents or otherwise) in connection with the Goods, for:
- a) any indirect, special or consequential loss, damage, costs, or expenses; and/or
 - b) any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third-party claims; and/or
 - c) any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; and/or
 - d) any losses caused directly or indirectly by any failure or breach by you in relation to your obligations; and/or
 - e) any loss relating to the choice of the Goods and how they will meet your purpose or the use by you of the Goods supplied.
- 6) The exclusions of liability contained within this clause will not exclude or limit our liability for death or personal injury caused by our negligence; or for any matter for which it would be illegal for us to exclude or limit our liability; and for fraud or fraudulent misrepresentation.

Communications

- 1) All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorized officer of that party).
- 2) Notices will be deemed to have been duly given:
- a) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
 - b) when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
 - c) on the fifth business day following mailing, if mailed by national ordinary mail; or
 - d) on the tenth business day following mailing, if mailed by airmail.
- 3) All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.

Circumstances beyond the control of either party

- 1) 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.

No Waiver

- 1) No waiver by us of any breach of these Terms and Conditions by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

Severance

- 1) If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

Law and jurisdiction

These Terms and Conditions are governed by and interpreted according to English law. All disputes arising under these Terms and Conditions are subject to the exclusive jurisdiction of the English courts.