

1. Interpretation

1.1 In these Conditions:

- "Buyer" means the person who has ordered goods from the Seller;
- "Goods" means the goods (Including any instalment of the goods or any parts of them) which the Seller is to supply in accordance with these conditions;
- "Seller" means Harting Ltd;
- "Contract" means the contract for the purchase and sale of the Goods.

1.2 Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these conditions are for convenience only and shall not affect their interpretation.

2. Basis of the sale

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 the terms and conditions set out below, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted or any such order is made or purported to be made by the Buyer.

3. Orders and specifications

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

3.2 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against at 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 cancellation.

4. Price of goods

4.1 The price of the Goods shall be the Seller's quoted price which will remain valid for 30 days only or until earlier acceptance by the Buyer after which they may be altered by the Seller without giving notice to the Buyer.

4.2 Where no price has been quoted, the price shall be the price shown in the Seller's published price list current at the date of the order.

4.3 The Seller reserves the right, by giving 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 (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, material or other costs of manufacture), or to any change in delivery dates, quantities or specifications for the Goods which is 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.

4.4 Unless otherwise stated, all prices given by the Seller include the cost of packaging, freight and delivery to an address in the United Kingdom specified by the Buyer, but the Seller reserves the right to impose a minimum order value from time to time and to make additional charges to the Buyer for packaging, freight and delivery for any order of less than the minimum order value.

4.5 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

5. Terms of payment

5.1 The Buyer shall pay the price of the Goods in full and irrespective of any set-off or counterclaim to which the Buyer may be entitled within 30 days of the date of the Seller's invoice.

5.2 If the Buyer fails to make any payment on the due date under any contract between the Seller and the Buyer then, without prejudice to any other right to remedy available to the Seller, the Seller shall be entitled to:

5.2.1 cancel the contract or suspend any further deliveries to the Buyer;

5.2.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and

5.2.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of two per cent per month commencing on the date of the invoice (a part of a month being treated as a full month for the purpose of calculating interest).

6. Delivery

6.1 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 howsoever caused. Time for delivery shall not be of the essence. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.2 Where delivery of the Goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 10 per cent more or less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.

6.3 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 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.

6.4 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 then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.4.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; and/or

6.4.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the Contract price or charge the Buyer for any shortfall below the Contract price.

7. Risk and property

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these conditions, the property in 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 all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and 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. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

7.4 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.

7.5 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 monies 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. Compliance with drawings and specification

8.1 All documents, drawings and specifications issued by the Seller in connection with the Goods are intended as illustrative only and no warranty is given that the Goods comply strictly with information given in any such material.

8.2 The copyright and all other intellectual property rights of whatever nature in any such documents, drawings, descriptions or specifications is vested exclusively in the Seller and the Buyer shall not reproduce or publish the same in any form without the Seller's prior written consent.

8.3 The Seller reserves the right to make changes in the design or specification of the Goods without prior notice to the Buyer provided that such changes do not materially affect the quality, performance or functionality of the Goods.

9. Orders for non-standard Goods

In the case of any Goods which the Seller manufactures or applies any process of manufacture to in accordance with instructions issued by the Buyer:

9.1 the Buyer accepts full responsibility for ensuring that any specification or instruction it may issue is accurate and fulfils its requirements for the Goods in question;

9.2 the Buyer warrants that the Goods produced in accordance with its specification or instructions will not infringe the intellectual property rights of any third party and undertakes to indemnify the Seller against all claims, demands, costs and expenses suffered or incurred by the Seller as a result of any alleged infringement of such third party rights;

9.3 the Seller shall be entitled to charge to the Buyer the cost of designing and manufacturing or procuring the design and/or manufacture of any special tools or devices required in the manufacture or modification of the Goods. The Seller may invoice the whole of such charges to the Buyer on production of the first prototype of the Goods and shall be entitled to suspend all further work on the production of the Goods unless such invoice is paid in full within 30 days.

9.4 unless expressly agreed to the contrary, all copyright and other intellectual property rights in any Goods manufactured or modified in accordance with this clause, and in any drawings, documents, tools or other matters connected with those Goods, shall vest exclusively in the Seller which shall, in the future, be entitled to exploit the same for whatever purpose it deems fit.

10. Warranties and liability

Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of delivery.

10.2 The above warranty is given by the Seller subject to the following conditions;

10.2.1 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, willful damage negligence, abnormal working conditions, electro-chemical or electrical influences, failure to follow the Seller's Instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;

10.2.2 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.

10.3 Subject as expressly provided in these conditions, and except where the Goods are sold under a consumer sale (as defined by the Sale of Goods Act 1979), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

- 10.4.A 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 or order shall be notified to the Seller within 48 hours from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within 7 days after the date on which the Buyer ought reasonably to have been aware of the defect or failure.
- 10.4.B Any claim by the Buyer which is based on incorrect quantity of the Goods or non-receipt of the Goods shall be notified to the Seller within 48 hours of delivery (in the case of shortages) or within 7 days of the date of the invoice (in the case of non-receipt).
- 10.5 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, the Seller shall be entitled to 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.
- 10.6 Any Goods or parts replaced by the Seller under the preceding sub-clause shall remain the property of the Seller.
- 10.7 Except in respect of death or personal injury caused by the Seller's negligence, 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 the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer.

11. Force Majeure

The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control;

- 11.1 Act of God, explosion, flood, tempest, fire or accident.
- 11.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 11.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 11.4 Import or export regulations or embargoes;
- 11.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of third party);
- 11.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 11.7 power failure or breakdown in machinery.

12. Indemnity

If any claim made against the Buyer that the Goods infringe or that their use or resale infringes the intellectual property rights of any other person, the Seller shall indemnify the Buyer against all loss, damages, cost and expenses awarded against or incurred by the Buyer in connection with the claim provided that:

- 12.1 the Seller is given full control of any proceedings or negotiations in connection with any such claim;
- 12.2 the Buyer shall give the Seller all reasonable assistance for the purpose of any such proceedings or negotiations;
- 12.3 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;
- 12.4 the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);
- 12.5 the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and cost (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and
- 12.6 without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.

13. General

- 13.1 Any communication required or permitted to be given by either party to the other under these conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 13.2 The contract is personal between the Buyer and the Seller and neither shall be entitled to assign its rights or duties under the Contract without the other's prior written consent.
- 13.3 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.
- 13.4 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 provisions in question shall not be affected thereby.
- 13.5 The Contract shall be governed by the laws of England.