

STANDARD CONDITIONS OF SALE

1. Definitions and interpretations

- 1.1 In these Conditions the following words and phrases shall have the following meanings:
 - 1.1.1 "Buyers" means the person who buys or agrees to buy the Goods from the Seller.
 - 1.1.2 "Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller.
 - 1.1.3 "Contract" means any contract between the Seller and Buyer incorporating the Conditions.
 - 1.1.4 "Goods" means those products agreed to be supplied by the Seller to the Buyer.
 - 1.1.5 "Price" means the price for the Goods.
 - 1.1.6 "Seller" means INTERFLEX LIMITED (company registration no. 4321837), whose principal place of business at Unit 10, Harby Road, Langar, Notts, NE13 9HY.

2. Application of terms

- 2.1 These conditions shall govern the Contract to the exclusion of any other terms and conditions (including any terms and conditions which the Buyer purports to apply) or any course of dealing established between Buyer and Seller.
- 2.2 Any variation to these Conditions or any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a duly authorized officer of the Seller. The Buyer acknowledges that there are no representations outside these Conditions which have induced it to enter into the Contract and these Conditions shall constitute the entire understanding between the parties for the sale of the Goods.

3. Orders

- 3.1 Any quotation by the Seller is an invitation to trade not an offer to sell.
- 3.2 Each order for Goods by the Buyer from the Seller shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions. The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.
- 3.3 No order placed by the Buyer shall be deemed to be accepted by the Seller until a written acknowledgement of order is issued by the Seller or (if earlier) the Seller delivers the Goods to the Buyer.

4. Payment

- 4.1 Payment is due net within 30 days following the date of invoice or date of delivery, whatever shall be earlier.
 - 4.1.1 The price of all Goods bought or agreed to be bought by the Buyer shall fall due and be payable without demand immediately on:
 - 4.1.2 the occurrence of any of the events specified in **Condition 8.7.1 - 8.7.6**; or
 - 4.1.3 termination of the Contract.
- 4.2 If the Buyer fails to make payment as required the Seller may suspend delivery of the Goods or any further Goods ordered until payment is made in full.
- 4.3 If the Buyer fails to make payment as required the Seller may treat such failure as a repudiation of the whole Contract and recover damages for such breach of contract.
- 4.4 The Buyer shall make all payments due under the contract without any deduction whether by way of set-off, counterclaim or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer.
- 4.5 The Seller may charge interest on overdue sums (both before and after judgement) at the rate for the time being applicable under the Late Payment of Commercial Debts (Interest) Act 1988.

5. Description

- 5.1 The quantity and description of the Goods shall be set out in the Seller's written acknowledgement of order.
- 5.2 All drawings, photographs, descriptive matter, specifications, dimensions and advertising issued by the Seller including its website, catalogues, brochures and price lists are issued for the sole purpose of giving an approximate idea of the Goods described in them. The Seller will have no liability (including for its own negligence) in respect of any errors or omissions therein and they will not form part of any contract with the Buyer.
- 5.3 The Seller may make any changes in the specification of the Goods which do not materially affect their quality or performance or are required to conform to any applicable statutory requirements.

6. Delivery

- 6.1 Unless otherwise agreed in writing by the Seller, delivery shall take place as set out in the Seller's written acknowledgement of order and the Buyer will provide, at its expense, adequate and appropriate equipment and manual labour for unloading the Goods.
- 6.2 The Buyer will take delivery of the Goods within 7 days of the Seller giving it notice that the Goods are ready for delivery.
- 6.3 Any dates specified by the Seller for delivery of the Goods are intended to be estimates only. Time for delivery shall not be of the essence and shall not be made so by notice. The Seller shall use its reasonable endeavours to meet any date agreed for delivery. If no dates are specified, delivery shall be within a reasonable time.
- 6.4 Seller shall be entitled to deliver the Goods in one or more consignments unless otherwise expressly agreed by the parties and the Buyer shall accept the separate invoices of each of these individual consignments which together would represent the value of the full order.
- 6.5 Where Seller has been unsuccessful in effecting delivery of Goods ordered by the Buyer at a time and date agreed by the Buyer and Seller or its agents, or delivery has been refused by the Buyer at the agreed appointment, Seller reserves the right to charge for the abortive delivery.
- 6.6 If the Seller delivers to the Buyer a quantity of goods up to 5% more or less than the quantity ordered by the Buyer, the Buyer shall not be entitled to object or reject the Goods or any of them by reason of the shortfall or excess and shall pay for such goods at the pro rata contract rate.
- 6.7 Deliveries are subject to any delivery charge specified at the time of ordering.
- 6.8 If for any reason the Buyer will not accept delivery of any of the Goods when they are ready for delivery or the Seller is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licenses or authorisations:
 - 6.8.1 risk of loss or damage to the Goods will pass to the Buyer (including for loss or damage caused by Seller's negligence);
 - 6.8.2 the Goods will be deemed to have been delivered; and
 - 6.8.3 the Seller may store the Goods until delivery whereupon the Buyer will be liable for all related costs and expenses.
- 6.9 Without prejudice to any other provision in these Conditions, Seller will not be liable for any direct, indirect, consequential or special losses (all four of which terms include, without limitation, any economic losses (including, without limitation, loss of revenues, profits, contracts, business or anticipated savings) and loss of goodwill or reputation) caused directly or indirectly by any delay in the delivery of the Goods (even if caused by Seller's negligence), nor will any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 90 days.
- 6.10 Without prejudice to any other provision in these Conditions, any liability of the Seller for non-delivery shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata contract rate against any invoice raised for such Goods.

7. Inspection

- 7.1 Immediately upon delivery, the Buyer shall check the number of packages and their sizes against the delivery note and shall return the delivery note to the driver with any discrepancies marked thereon. The Buyer shall also give separate notice of any such discrepancies to the Seller immediately.
- 7.2 The Buyer shall inspect the Goods immediately on receipt thereof and shall within three days (3) working days give notice to Seller of any damage to the Goods and shall within ten (10) working days give notice to Seller in detail of any grounds on which the Buyer alleges that the Goods are not in accordance with the Contract. If the Buyer fails to give notice the Goods shall be conclusively presumed to be in all respects in accordance with the Contract and free from any defect which would be apparent on reasonable examination of the Goods and the Buyer shall be deemed to have accepted the Goods accordingly. If the Buyer does give notice pursuant to this condition then Seller shall be given reasonable opportunity after receiving such notice to examine the relevant Goods and the Buyer (if asked to do so by Seller) shall return the relevant Goods to Seller's place of business at Seller's cost for the examination to take place there. If Seller does not inspect or request the return of such Goods, the Buyer shall dispose of the non-conforming Goods only upon documented instruction from Seller.

8. Title and property

- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery (unless otherwise provided in these Conditions) and upon passage of such risk the Buyer shall be responsible for insuring the Goods from the time of delivery. Seller shall not be liable for any loss of any kind to the Buyer arising from any loss of or damage to the Goods occurring after the risk has passed to the Buyer however caused, nor shall any liability of the Buyer to Seller be diminished or extinguished by reason of such loss.
- 8.2 Notwithstanding any other provision herein the Goods shall remain the sole and absolute property of the Seller as legal and equitable owner until the Seller has received in cash or cleared funds all sums due to it in respect of the Goods.
- 8.3 The Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Seller.
- 8.4 Until ownership of the Goods has passed to the Buyer, the Buyer must:
 - 8.4.1 hold the Goods on a fiduciary basis as the Seller's bailee;
 - 8.4.2 store the Goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property;
 - 8.4.3 not destroy, deface, or obscure any identifying mark or packaging on or relating to the Goods;
 - 8.4.4 maintain the Goods in satisfactory condition insured on the Seller's behalf for their full price and insured against all risks to the reasonable satisfaction of the Seller and on request to produce the policy of insurance to the Seller, and
 - 8.4.5 hold the proceeds of the insurance referred to in this provision on trust for the Seller and not mix them with any money, nor pay the proceeds into an overdrawn bank account.
- 8.5 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
 - 8.5.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value, and
 - 8.5.2 any such sale shall be a sale of the Seller's property on the Buyer's own behalf and the Buyer shall deal as principal when making any such sale.
- 8.6 The Buyer shall not be entitled to (and shall not purport to) part with possession, mortgage, encumber or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller.
- 8.7 If:
 - 8.7.1 the Buyer makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt, or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer, or
 - 8.7.2 an encumbrancer takes possession of, or a receiver is appointed over, any of the property or assets of the Buyer, or
 - 8.7.3 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against him; or
 - 8.7.4 The Buyer ceases, or threatens to cease, to carry on business, or
 - 8.7.5 The Buyer breaches any of its obligations under this or any contract between the Seller and Buyer, or
 - 8.7.6 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly the Seller has the right to repossess and re-sell the Goods and the Seller shall be entitled to terminate any contract with the Buyer or suspend any further deliveries thereunder without any liability to the Buyer.
- 8.8 The Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where any Goods are stored or where they are reasonably thought to be stored in order to inspect or repossess them.

STANDARD CONDITIONS OF SALE (CONTINUED)

9. Quality

- 9.1 Seller warrants that (subject to the other provisions of these conditions) upon delivery, the Goods will:
- 9.1.1 be of satisfactory quality as defined in the Sale of Goods Act 1994;
 - 9.1.2 be reasonably fit for the Buyer's purpose for which the Goods have been bought and of which Seller has express knowledge.
- 9.2 The Seller shall not be liable for any express or implied breach or warranty concerning the quality or fitness for purpose of the Goods unless:
- 9.2.1 and until the Buyer has complied with its obligations under **Condition 7.1** above with respect to the particular Goods;
 - 9.2.2 the Buyer gives written notice of the defect to the Seller and (if the defect is as a result of damage in transit) to the carrier, within 3 days of the time when the Buyer discovers or ought to have discovered the defect; and
 - 9.2.3 the Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost for the examination to take place there.
- 9.3 The Seller shall not be liable for any express or implied breach of warranty concerning quality or fitness for purpose of the Goods if:
- 9.3.1 the Buyer makes any further use of such Goods after giving such notice; or
 - 9.3.2 the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
 - 9.3.3 the Buyer has not paid the total price for the Goods by the due date for payment; or
 - 9.3.4 the Buyer alters or repairs such Goods without the written consent of the Seller.
- 9.4 Without prejudice to any other provision in these Conditions, if any of the Goods do not conform to any express or implied warranty concerning the quality or fitness for purpose of the Goods, the Seller shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata contract rate provided that, if the Seller so requests, the Buyer shall, at the Buyer's expense, return the Goods or the part of the Goods which is defective to the Seller. If the Seller complies with this provision, it shall have no further liability for any express or implied warranty concerning the quality or fitness of the Goods.

10. Limitation of liability

- 10.1 Without prejudice to any other provision in these conditions, the following provisions set out the entire financial liability of Seller (including any liability for the acts or omission of its officers, servants, employees, agents and sub-contractors as well as any separate liability of such persons) to the Buyer in respect of:
- 10.1.1 any breach of these conditions; and
 - 10.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2 Without prejudice to any other provision in these Conditions, 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 a sum equal to the Price payable for the relevant Goods.
- 10.3 Without prejudice to any other provision in these conditions, the Seller shall not be liable to the Buyer for:
- 10.3.1 any economic losses (including, without limitation, loss of revenues, profits, contracts, business or anticipated savings);
 - 10.3.2 any loss of goodwill or reputation; or
 - 10.3.3 any special, indirect or consequential losses.
- 10.4 Nothing in these Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or for fraudulent misrepresentation or for any liability which may not be excluded or limited by law. Nor does it affect the statutory rights of any consumer.
- 10.6 For the avoidance of doubt, Seller gives no warranty or representation (whether express or implied) in respect of intellectual property rights (of whatever nature) contained within the Goods.

11. Assignment

- 11.1 The Buyer shall not be entitled to assign the Contract or any part of it without prior written consent of the Seller.
- 11.2 The Seller may assign, transfer or novate the Contract or any part of it to any person, firm or company at any time and will inform the Buyer thereof in writing within a reasonable time thereafter.

12. Force majeure

- 12.1 Neither party shall be liable for any delay or failure to perform any of its obligations (excluding as to payment) if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to strikes, lock outs or other labour disputes (whether or not relating to either party's workforce), accidents, war, fire, floods, acts of terrorism, explosion, epidemic, reduction in or unavailability of power at the Seller's premises or its manufacturing plant, breakdown of plant or machinery or computer hardware or software or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials. Provided that if the event in question continues for a continuous period in excess of 90 days, the Buyer shall be entitled to give notice in writing to the Seller to terminate the Contract.

13. Notices

- 13.1 Any notice or other communication under or in conjunction with the Contract must be in writing in English and must be delivered personally or sent by prepaid recorded or special delivery (if both sender and recipient are within the United Kingdom) or air courier (if either sender or recipient is outside the United Kingdom) or by fax or by email to the party due to receive the notice or communication at: its address set out in the Contract or at another address or to a fax number or email address specified by that party by written notice to the other.
- 13.2 In the absence of evidence of earlier receipt, a notice or other communication is deemed given:
- 13.2.1 if delivered personally, when left at the address referred to above; or
 - 13.2.2 if sent by prepaid recorded or special delivery within the United Kingdom, two days after posting it; or
 - 13.2.3 if sent by air courier, three days after despatch; or
 - 13.2.4 if sent by fax, upon the date specified in the transmission report from the machine which sent the facsimile indicating that the facsimile was sent in its entirety to the facsimile number of the recipient; or
 - 13.2.5 if sent by email, upon the date sent provided the message has not been returned as undeliverable.

14. General

- 14.1 Save in relation to any condition excluding or limiting the liability of the Seller's officers, servants, employees, agents and sub-contractors, a person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 14.2 The headings of the provisions in these Conditions are intended for reference only and will not effect the construction of these Conditions.
- 14.3 If any provision of the Contract is adjudged illegal, invalid, void, voidable, unenforceable or unreasonable in whole or in part it shall to that extent be deemed severable and the validity of the remainder of the provisions in question and the other provisions of the Contract shall not be affected.
- 14.4 Each right or remedy of Seller under the Contract is without prejudice to any other right or remedy of Seller whether under the Contract or not.
- 14.5 Failure or delay by the Seller in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
- 14.6 Any waiver by the Seller of any breach of, or any default under the, any provision of the Contract by the Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 14.7 This Contract shall be governed by the law of England and Wales and subject to the exclusive jurisdiction of the Courts of England and Wales.