

Standard Terms and Conditions of Sale by Overview Ltd

Registered in England with company registration number 02231437 at Overview House, Unit B3, Kingswey Business Park, Forsyth Road, Woking, Surrey GU21 5SA and VAT Registration No. 561 8010 63

1. DEFINITIONS

In these Terms and Conditions ("Conditions") the following words definitions apply:

- 1.1 "Business Day" means a day (other than a Saturday, Sunday or public holiday) when banks in London, England are open for business;
- 1.2 "the Company" means Overview Ltd;
- 1.3 "the Contract" means a contract between the Company and the Buyer for the sale and purchase of the Goods in accordance with these Terms and Conditions;
- 1.4 "the Buyer" means the person, firm or Company to whom a quotation, estimate, acceptance is addressed;
- 1.5 "the Goods" shall mean the articles or services that are referred to in the Company's quotation/estimate/written acceptance; and
- 1.6 "the Full Contract Price" comprises of the invoice price for the Goods and, where applicable the invoice cost of delivery and insurance of the Goods and interest accrued and value added tax due on either.

2. BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms or conditions that the Buyer seeks to impose or incorporate, or which are or may be implied by trade, custom, practice or course of dealing.
- 2.2 The Company's estimate or quotation comprises an invitation to treat, not an offer, and is valid for a period of 30 Calendar Days only from its date of issue provided that it has not been withdrawn earlier or an alternative validity is not identified on the quotation.
- 2.3 An order issued by the Buyer constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the order and any applicable specifications are complete and accurate.
- 2.4 The order shall only be deemed to be accepted when the Company issues an order acceptance, at which point the Contract shall come into existence.
- 2.5 The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in these Conditions.
- 2.6 No variation of these Conditions is permitted unless expressly accepted by the Company Secretary or a Director in writing.
- 2.7 The headings of these Conditions are for convenience only and shall have no effect on the interpretation thereof.

3. CANCELLATION

- 3.1 No cancellation by the Buyer is permitted except where expressly agreed by the Company in writing (an "Agreed Cancellation")
- 3.2 In the event of an Agreed Cancellation the Buyer will indemnify the Company fully against all loss, costs and expenses incurred, calculated on the following basis: 100% of the Full Contract Price for items cancelled within 60 days of the expected delivery date; 60% of Full Contract Price for Goods cancelled between 60 and 150 days of the expected delivery date; all other work-in-progress at 100% of the cost and expense incurred by the Company including reimbursement of 100% of the cost of all materials and items purchased or committed to be purchased from third party suppliers in connection with fulfilment of the Contract together with any penalty or other cancellation charges associated with the cancellation by the Company of any purchase order placed with such third party supplier following the Agreed Cancellation.
- 3.3 If the Buyer becomes subject, or the Company reasonably believes that the Buyer is about to become subject to any event listed in clause 3.4 and notifies the Buyer accordingly, then, without limiting any other right or remedy available to the Company, the Company may cancel or suspend all future deliveries under the Contract or under any other contract between the Buyer and the Company without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

3.4 For the purposes of clause 3.3, the relevant events are, if the Buyer (being a Company) has a petition presented for its winding up or passes a resolution for voluntary winding up otherwise than for the purpose of a bona fide amalgamation or reconstruction without insolvency, or enters into any voluntary or other arrangement or compromise with its creditors or has a receiver or administrative receiver appointed over all or any part of its assets or an administrator is appointed or (being an individual) becomes bankrupt or insolvent or enters into any arrangement with his creditors, or commits a material or serious breach of these Terms and Conditions (and in the case of such a breach being remediable fails to remedy it within 7 days of receiving notice to do so.)

4. PRICES, LEAD TIMES AND MINIMUM ORDER QUANTITIES (M.O.Q.)

- 4.1 All prices, lead times and minimum order quantities quoted are those ruling at the date of quotation or estimate.
- 4.2 Unless otherwise stated all prices quoted are ex-works London, England and exclusive of value added tax (VAT). The Buyer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 4.3 The Company reserves the right at any time prior to delivery of the Goods to adjust the price, lead time and minimum order quantity to take account of any change in quantity ordered, increase in the cost of materials, labour or services, changes in requested due date, any currency fluctuations affecting the cost of imported materials or goods or any delay caused by instructions of the Buyer or failure of the Buyer to give the Company adequate information or instructions.
- 4.4 The Company will, upon written request by the Buyer and subject to payment of all charges associated therewith on such payment terms as the Company may stipulate, arrange for transport and insurance of the Goods on behalf of the Buyer and will invoice the Buyer for the cost thereof. The Buyer should note the provisions of clauses 5.1 and 7.1 (passing of risk), which apply in all circumstances.

5. PAYMENT

- 5.1 The Buyer shall pay each invoice in full and in cleared funds within 30 Calendar Days of the date of the invoice and in any event within 30 days of the date of delivery of the Goods. Payment shall be made to the bank account nominated in writing by the Company.
- 5.2 If the Buyer fails to make any payment due to the Company by the due date for payment (due date), then the Buyer shall pay interest on the overdue amount at the rate of 5% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.
- 5.3 The Buyer shall pay all amounts due in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Company in order to justify withholding payment of any such amount in whole or in part. The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Company to the Buyer.
- 5.4 The Company reserves the right at any time at its discretion to demand security for payment before beginning, continuing with or delivering any order.

6. DELIVERY

- 6.1 Delivery is completed when the Goods leave the Company's premises or, as the case may be, the premises of the Company's suppliers in circumstances where the Goods are delivered direct from the Company's suppliers to the Buyer.
- 6.2 The Company shall not be liable for any loss whatsoever or howsoever arising caused by its non-delivery or by the failure to make The Goods ready for collection on the due date.
- 6.3 If the Buyer fails to accept delivery of the Goods within three Business Days of the Company notifying the Buyer that the Goods are ready, then:
(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Company notified the Buyer that the Goods were ready; and
(b) the Company shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).
- 6.4 The Company reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment.

- 6.5 The Buyer is responsible for obtaining, at its own cost, such import licenses and other consents in relation to the Goods as are required from time to time and, if required by the Company, the Buyer shall make those licenses and consents available to the Company prior to the relevant shipment.
- 6.6 The Company will have fulfilled its contractual obligations in respect of each delivery provided that the quantity actually delivered is no greater than 10% more or less than the quantity specified in the Contract. The Buyer shall pay for the actual quantity delivered.

7. RISK AND THE PASSING OF TITLE

- 7.1 Risk in the Goods shall pass to the Buyer when the Goods are delivered to the Buyer or its agent.
- 7.2 Notwithstanding clause 7.1 title in the Goods shall not pass to the Buyer until the Buyer has paid the Company the Full Contract Price for the Goods and any other sums which are due in respect of any other goods supplied by the Company.
- 7.3 Until title to the Goods passes, the Buyer shall:
- (i) hold the Goods as fiduciary agent and Bailee for the Company; and
 - (ii) keep the Goods separately from all other property or goods held by the Buyer so that they remain clearly identifiable as belonging to the Company; and
 - (iii) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.
- 7.4 The Company retains the right of access to any sub-buyer for repossession of the Goods and can sue for payment in the event repossession is not effected.
- 7.5 The Company may enter the premises where the Goods are stored and re-possess them (or as many as will extinguish any sums due to the Company under clause 7.2.) in either of the following circumstances.
- (i) where any sums due to the Company under clause 7.2 have been due and outstanding for a period of seven days or more.
 - (ii) if the Buyer (being a company) has a petition presented for its winding up otherwise than for the purpose of bona fide amalgamation or reconstruction without insolvency or makes a composition or voluntary arrangement with its creditors or has a receiver or administrative receiver appointed of all or any part of its assets or an administrator is appointed or (being an individual) becomes bankrupt or insolvent or enters into any arrangement with his creditors.

8. WARRANTY

- 8.1 Subject to the conditions set out below the Company warrants that the Goods will for a period of 24 months from the date of delivery correspond with any specification of the Goods forming part of the Contract, will be free from defects (except minor defects) in material or workmanship and will conform to the relevant safety standards governing Goods of that nature in force from time to time. The Company warrants that any software which may accompany the Goods will perform in accordance with any specification supplied with such software for a period of 90 days from delivery. The Company warrants that any aftermarket parts supplied by the Company will for a period of 90 days from the date of delivery correspond with the specification to the applicable parts.
- 8.2 The Company shall be under no liability under the above warranty in respect of:
- a) any defect in the Goods arising from any drawing; product, circuit or other design; specification or materials supplied by the Buyer;
 - b) any defects arising in the Goods as a result of installation unless such installation was carried out by the Company;
 - c) the replacement of consumables;
 - d) any defect arising from fair wear and tear; wilful damage, incorrect movement, misuse, alteration or maintenance of the Goods (other than by the Company or its agents or with the Company's approval); or failure to follow the Company's instructions (whether oral or in writing);
 - e) any Goods for which the total price has not been paid by the due date;
 - f) any Goods or parts thereof which are not manufactured by the Company (for which Goods or parts the Company will extend the manufacturer's warranty to the Buyer to the extent that it is able to do so);

- g) Goods which the buyer does not (if asked to do so by the Company) return to the Company's place of business at the Buyer's risk and cost, in the original packaging or suitably packaged and protected in order to prevent damage;
- h) when returned Goods do not contain all components of the Goods;
- i) where clause 10.1 is applicable;
- j) the Company is not given a reasonable opportunity of examining such Goods; and
- k) the Buyer makes any further use of such Goods after giving notice of the claim.

In the event of loss or damage occurring to Goods during transit where the Goods are transported by the Company or its carrier the Buyer must give written notice to the Company within two working days of the date of delivery and further where such Goods are consigned by a carrier of the Company the Buyer or its representative must in addition comply in all respects with that carrier's conditions of carriage for notification for omissions from the delivery or loss or damage in transit. The Buyer or its representative must give written notice to the Company within three working days of receipt of invoice if the Goods have not been delivered by the Company or its carrier to the destination agreed in the Contract. Failure to give written notice pursuant to this clause shall mean that the Buyer or its representative shall be deemed to have accepted the Goods as being in good order and in conformity with the Contract.

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 shall be notified in writing to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure and the defective Goods should be returned to the Company carriage paid. If the Buyer does not notify the Company accordingly, the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

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 or their failure to meet specification is notified to the Company in accordance with these Conditions, the Company shall at its option repair or replace the Goods (or the part of the Goods in question) and deliver the same to the Buyer free of charge but the Company shall have no further liability to the Buyer. Any goods or components replaced under warranty by the Company shall become the property of the Company. Any components replaced by the Company as part of a chargeable repair shall become the property of the Company unless the customer purchase order specifically states otherwise.

- 8.3 The Company will supply a quote to the Buyer for the repair of Goods falling out of the warranty period or not covered by warranty.
- 8.4 The items need to be returned within 30 days from the issue date by the Company of an RMA (Returned Merchandise Authorisation) number, or it will be cancelled, and a new RMA will need to be generated.
- 8.5 The Company is an OEM supplier and holds no liability if parts are no longer available after the warranty period.
- 8.6 Any out of warranty repairs will be held at the Company for no more than 2 weeks after the quote has been sent and the Goods will be returned at the Buyer's expense if no confirmatory action is taken by the Buyer.
- 8.7 Upgrades to the Goods may be discussed as a separate agreement by both the Company and the Buyer and will not take effect until confirmed in writing.
- 8.8 The cost of upgrading a unit may include labour, parts, shipping and additional warranty costs.

9. LIMITATION OF LIABILITY

- 9.1 Nothing, in this clause shall be deemed to exclude or restrict the Company's liability for:
 - a) death or personal injury resulting from its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - (d) defective products under the Consumer Protection Act 1987.
- 9.2 The Company shall under no circumstances whatsoever be liable to the Buyer whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of contracts, loss of revenues, loss of anticipated savings, or any indirect or consequential loss arising under or in connection with the Contract.

- 9.3 THE COMPANY'S TOTAL LIABILITY FOR BREACH OF WARRANTY OR ANY OTHER CLAIM SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF THE PRODUCTS OR RETURN OF THE PURCHASE PRICE AT THE COMPANY'S SOLE OPTION AND SHALL IN NO CIRCUMSTANCES EXCEED THE PRICE OF THE GOODS.

10. SALES PROMOTION DOCUMENTATION

- 10.1 Whilst the Company takes every precaution in the preparation of its catalogue, technical circulars, price lists and its other literature, these documents are for the purpose of the Buyer's general guidance and the particulars contained therein shall not constitute representations by the Company and the Company shall not be bound thereby.

11. TOOLING, MOULDS, DESIGN

- 11.1 All copyright and other intellectual property rights subsisting in the Goods (including all components) and the design thereof including but not limited all aspects of the shape, appearance and configuration thereof and all software and firmware relating thereto and all moulds and tooling developed therefor shall be and remain owned by the Company and/or its third party suppliers absolutely. The Buyer is purchasing physical goods only. No rights or interest in any of the Company's intellectual property rights are conveyed or conferred upon the Buyer under any Contract.
- 11.2 Unless agreed in writing between the Company and the Buyer pursuant to a separate written agreement:
- 11.2.1 The provisions of clause 11.1 above shall apply regardless of whether or not the Buyer has paid for or made a contribution towards the cost of design of or modifications to any aspect of the Goods or any moulds, tools, fixtures or dies;
- 11.2.2 the Buyer enjoys no right to the exclusive supply of the Goods. The Company shall be free to sell the Goods or any components thereof to any person it chooses.
- Any tools, fixtures, dies etc. used by the Company will remain the property of the Company. Tooling paid in full by the Buyer will be stored in good condition by the Company, until instructed otherwise by the Buyer, for a period not exceeding 10 years. The Company reserves the right to charge the Buyer for all related storage costs and expenses (including insurance) associated with the storage of such tools, fixtures, dies etc.
- 11.3 In the event of the Buyer requiring alteration to the design after moulds/tools have been ordered or made up they shall be liable for the full cost of alteration to moulds/tools or the preparation of new moulds/tools at the Company's discretion.
- 11.4 Samples are by agreement chargeable in full thirty days after receipt where applicable.

12. ASSIGNMENT

- 12.1 The Buyer may not assign or transfer or purport to assign or transfer the Contract or the benefits thereof to any other person without the prior written consent of the Company.

13. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

14. SEVERANCE

- 14.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 14.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15. NO WAIVER

- 15.1 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

16. THIRD PARTY RIGHTS

- 16.1 A person who is not a party to the Contract shall not have any rights under or in connection with it.

17. NOTICES

- 17.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or recorded delivery (or by airmail service where sent to or from the UK to or from abroad provided that the service requires a signature from the addressee as evidence of delivery), commercial courier, fax or e-mail.
- 17.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 17.1 if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting (or on the tenth Business Day after posting where sent by airmail); if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission subject in the case of a communication by fax receipt of an answerback message confirming receipt of all pages transmitted and in the case of email subject to receipt of a delivery confirmation receipt (including one which is automatically generated) that the email message has been received by the Buyer's email server.
- 17.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

18. LAW AND JURISDICTION

- 18.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English Law and all disputes arising in connection with the Contract shall be substituted to the exclusive jurisdiction of the English Courts. For the avoidance of doubt, the United Nations Convention on the International Sale of Goods shall not apply to the Contract. The international rules for the interpretation of trade terms prepared by the International Chamber of Commerce (Incoterms) shall apply but where they conflict with these Conditions, these Conditions shall prevail.
- 18.2 Nothing in this clause 18 shall limit the right of the Company to take proceedings against the Buyer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdiction preclude the Company from taking proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.
- 18.3 It is the Buyer's obligation to acquaint itself and to comply with all applicable requirements and restrictions imposed by law or by governmental and other authorities or corporations relating to the possession, use, import, export, or resale of the Goods. It is the Buyer's obligation to ensure that no Goods are exported or imported in violation of the laws of any jurisdiction into or through which the Goods are transported during the course of reaching the Buyer. Where necessary, the Buyer shall inform the Company at a reasonable time before delivery of any documents which it is necessary for the Company to provide in order to allow export of the Goods in compliance with the laws of any relevant jurisdiction.