

D GURTEEN & SONS LIMITED
(a company registered in England under number 236462)
Chantry Mills, Haverhill, Suffolk CB9 8AZ

STANDARD CONDITIONS OF SALE

1. GENERAL

Every contract between D. GURTEEN & SONS LTD., ("the Seller") and you ("the Buyer") shall be subject to the following conditions. No terms stipulated or referred to by the Buyer shall apply and no modification in or addition to the conditions shall be valid unless in writing and signed by a Director of the Seller. No failure by the Seller to exercise any right shall be deemed to be a waiver of such right. Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage or use of the goods which is not confirmed in writing by a director of the Seller is followed or acted on entirely at the Buyer's own risk and accordingly the Seller shall not be liable for such advice or recommendation which is not so confirmed.

The Seller's employees and agents are not authorised to make any representation concerning the goods unless confirmed in writing by a director of the Seller. In entering into any contract with the Seller, the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

Nothing in these terms and conditions affects the liability of either party for fraudulent misrepresentation.

2. ACCEPTANCE

- (1) All orders are subject to acceptance by the Seller.
- (2) No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of a director of the Seller and on the terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of labour and material used), damages, charges and expenses incurred by the Seller as a result of cancellation.

3. DELIVERY

- (1) Any time stated (whether or not in the contract) for delivery of the goods, is an estimate only and shall not be of the essence of the contract. Whereas we will make every endeavour to deliver to the time requested we will not be liable for any consequential losses to the Buyer resulting from late delivery.
- (2) 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 terms 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.
- (3) 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 limiting any other right or remedy available to the Seller the Seller may:
 - (i) store the goods until actual delivery and charge the Buyer for the reasonable costs of storage; and/or
 - (ii) sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Buyer for any shortfall below the price payable by the Buyer.

4. CARRIAGE

Goods are usually priced carriage paid if they can be despatched by our normal transport methods; a carriage charge will be added on small orders below our carriage paid limit at the time of acceptance. This limit is available on request and varies from time to time.

5. RETURNS

No goods delivered as ordered will be taken back unless a written returns authorisation has been issued by a duly authorised representative of the Seller. The Seller shall have an absolute discretion to accept or refuse the return of goods delivered as ordered and further the Seller may subject the return of such Goods to such conditions as it deems fit. Should any goods not conform to the order the Buyer is to hold them subject to the Sellers instructions and advise the Seller immediately.

6. CONDITION

- (1) Subject to the following provisions, the Seller warrants that the goods will correspond with their specification at the time of delivery.
- (2) The above warranty is given by the Seller subject to the following conditions:
 - (i) the Seller shall be under no liability in respect of any defect in the goods arising from any drawing, design or specification supplied by the Buyer;
 - (ii) the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, 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;
 - (iii) 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;

- (3) Subject as expressly provided in these terms, and except where the goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- (4) Where the goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Terms.
- (5) Subject to paragraph 9(i) a 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 (whether or not delivery is refused by the Buyer) be notified to the Seller within seven 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. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the goods and the Seller 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.
- (6) Where a valid claim in respect of any of the goods which is based on a defect in the quality or condition of the goods or their failure to meet specification is notified to the Seller in accordance with these terms, the Seller may 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), in which case the Seller shall have no further liability to the Buyer.
- (7) Except in respect of death or personal injury caused by the Seller's negligence, or liability for defective products under the Consumer Protection Act 1987, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the goods (including any delay in supplying or any failure to supply the goods in accordance with the contract or at all) or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the contract shall not exceed the price of the goods, except as expressly provided in these terms.

7. PAYMENT AND DISCOUNT

- (1) The Price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid) the price listed in the Seller's published price list current at the date of acceptance of the order.
- (2) Goods will be invoiced when they are ready for delivery to the Buyer. Unless otherwise agreed in writing invoices are due for payment in full no later than 30 days after the date of invoice.

8. LATE PAYMENT

If the payment is not made in accordance with the agreed terms without limiting any other right or remedy available to the Seller, the Seller may:

- (1) charge the Buyer interest on the amount for the time being outstanding at the rate of 2% per month (simple) as well after as before any judgement and recover from the Buyer all legal and other costs incurred by the Seller; and
- (2) cancel the contract or suspend any further deliveries to the Buyer.

9. TITLE, RISKS & CLAIMS

- (1) The Buyer bears the risk of loss or damage to goods from the time of collection from us or from the time of delivery by us, whichever is applicable. Where the Seller delivers, the Seller will accept liability:
 - (a) in respect of total loss in transit if the Buyer notifies the seller in writing within fourteen (14) days of the invoice date;
 - (b) in respect of shortage of delivery or damage to or deterioration in the goods in transit, if the Buyer notifies the Seller and the Carrier (by telephone on or before the day following the day of delivery and in writing within three (3) days of the delivery.

An unconditional signature on the Carrier's Sheet absolves the Carrier from any liability. Unless the Carrier's sheet is signed strictly in accordance with the actual conditions of the package on arrival, no claims for loss or damages can be entertained. It is not sufficient to sign the sheet as 'unexamined'.

- (2) Notwithstanding delivery and the passing of risk in the goods, or any other provision of these terms the property in the goods shall not pass to the Buyer until the Seller has received in cash or cleared funds:
 - (a) payment in full of the price of the goods;
 - (b) payment in full for all other goods agreed to be sold by the seller to the buyer for which payment is then due.
- (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, but the Buyer may resell or use the goods in the ordinary course of its business.
- (4) Until such time as the property in the goods passes to the Buyer the Seller may at any time require the Buyer to deliver up the goods to the Seller and if the Buyer fails to do so forthwith, enter onto any premises of the Buyer or any third party where goods are stored and repossess the goods.
- (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 the money owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) forthwith become due and payable.

10. **SUSPENSION/CANCELLATION**

- (1) This clause 11 applies if:
 - (i) the Buyer makes a composition or voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters administration or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or a moratorium comes into force in respect of the Buyer (within the meaning of the Insolvency Act 1986); or
 - (ii) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
 - (iii) the Buyer ceases, or threatens to cease, to carry on business; or
 - (iv) 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.
- (2) If this clause applies then, without limiting any other right or remedy available to the Seller, the Seller may cancel the contract or suspend any further deliveries under the contract without any liability to the Buyer, and if the goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

11. **FORCE MAJEURE**

If the performance of our obligations is delayed or prevented by Act of God, Civil Insurrection, Riot Embargo, Act of Civil or Military Authority or Agency under the control of such authority, fire, flood, accident, quarantine restrictions, mill conditions, industrial dispute, delay in or shortage of transportation, shortage of fuel, labour or materials, or any other cause beyond our reasonable control, then we may suspend performance of any affected obligation until the termination of the disrupting event. If the period of the delay or disruption continues for a period of more than three (3) months, then we or the Buyer may cancel the contract or the affected part thereof.

12. **SPECIFICATIONS**

- (1) The design of most goods supplied by us is copyright or a registered design, reserved to us or the copyright or design owner. The only licence granted to the Buyer is to sell the goods, subject to these rights, to bona fide purchasers for the intended use of the goods.
- (2) The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer and for giving the Seller any necessary information relating to the goods within a sufficient time to enable the Seller to perform the contract in accordance with its terms.
- (3) If the goods are to be manufactured or any process is to be applied to the goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.
- (4) The Seller reserves the right to make any changes in the specification of the goods which are required to conform with any applicable statutory or EU requirements or where the goods are to be supplied to the Seller's specification which do not materially affect their quality or performance.

13. **TRADEMARKS & FIXTURES & FITTINGS**

The Buyer will foster the goodwill and good name of the Seller's trademarks. All advertising and promotional materials and fixtures and fittings supplied by the Seller remains the Seller's property and the Buyer must not allow any other person to make use thereof.

14. **RESALE**

Except in relation to goods sold by us to a Buyer in another member state of the European Union, the Buyer may not sell goods supplied by us to any person in the United Kingdom who to the knowledge or belief of the Buyer is purchasing them for the sole purpose of resale in the United Kingdom.

15. **V.A.T.**

All Prices and charges are subject to VAT at the appropriate rate.

16. **EXPORTS**

- (1) Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of INCOTERMS shall have the same meaning in these terms, but if there is any conflict between the provisions of Incoterms and these terms, the latter shall prevail.
- (2) Where the goods are supplied for export from the United Kingdom, the provisions of this clause 16 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these terms.
- (3) The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the goods into the country of destination and for the payment of any duties on them.
- (4) Unless otherwise agreed in writing by a director of the Seller, the goods shall be delivered fob the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.
- (5) The Buyer shall be responsible for arranging for testing and inspection of the goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

- (6) Unless otherwise required by a director of the Seller, payment of all amounts due to the Seller shall be made by an irrevocable letter of credit, in a form acceptable to the Seller, to be opened by the Buyer in favour of the Seller and confirmed by a bank in the United Kingdom acceptable to the Seller within 14 days after the contract is concluded.

17. ENGLISH LAW

The contract shall be subject to and interpreted in accordance with English Law and under the sole jurisdiction of the Courts of England.

18. ENFORCEABILITY

If any provision of the contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the contract and the remainder of the provisions in question shall not be affected.

Trading Name:

Signature:

Print Name:
