

**GENERAL TERMS AND CONDITIONS  
FOR SALE OF GOODS**

**OF**

**ET ENTERPRISES LTD**

**1 DEFINITIONS**

In this document the following words shall have the following meanings:

- 1.1 "Buyer" means the organisation or person who buys Goods from the Seller;
- 1.2 "Goods" means the articles to be supplied to the Buyer by the Seller;
- 1.3 "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable;
- 1.4 "Standard Price" means the standard prices of the Goods maintained by the Seller as amended from time to time;
- 1.5 "Seller" means ET Enterprises Ltd., 45 Riverside Way, Uxbridge UB8 2YF, UK.

**2 GENERAL**

- 2.1 These Terms and Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions referred to, offered or relied on by the Buyer whether in negotiation or at any stage in the dealings between the parties, including any standard or printed terms tendered by the Buyer, unless the Buyer specifically states in writing, separately from such terms, that it wishes such terms to apply and this has been agreed by the Seller in writing.
- 2.2 Any variation to these Terms and Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

**3 PRICE AND PAYMENT**

- 3.1 The price shall be the Seller's current Standard Price at the time of invoice, or such other price as the parties may agree in writing. The price is exclusive of VAT or any other applicable costs. Carriage and insurance shall be paid for by the Buyer unless agreed otherwise.
- 3.2 For approved suppliers, as notified by the Seller to the Buyer in writing, payment is due within 30 days of the date of invoice. Otherwise payment is required in advance of despatch of the Goods. Payment for online purchases is taken at the time the online order is placed.
- 3.3 The Seller shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 4 percent per annum above the base rate of the Bank of England.
- 3.4 If payment of the price or any part thereof is not made by the due date, the Seller shall be entitled to:
  - 3.4.1 require payment in advance of delivery in relation to any Goods not previously delivered and/or

3.4.2 refuse to make delivery of any undelivered Goods whether ordered under the contract or not and without incurring any liability whatever to the Buyer for non-delivery or any delay in delivery and/or

3.4.3 terminate the contract.

3.5 The Buyer shall make all payments due under the contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement 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 DESCRIPTION**

Any description given or applied to the Goods is given by way of identification only and the use of such description shall not constitute a sale by description. For the avoidance of doubt, the Buyer hereby affirms that it does not in any way rely on any description when entering into the contract.

#### **5 SAMPLE**

Where a sample of the Goods is shown to and inspected by the Buyer, the parties hereto accept that such a sample is so shown and inspected for the sole purpose of enabling the Buyer to judge for itself the quality of the bulk, and not so as to constitute a sale by sample.

#### **6 DELIVERY**

6.1 Unless otherwise agreed in writing, delivery of the Goods shall take place at the address and on the date specified by the Seller on its order acceptance form. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

6.2 The date of delivery specified by the Seller is an estimate only. Time for delivery shall not be of the essence of the contract. Penalty clauses cannot be accepted unless agreed by the Seller in writing in advance of the order being accepted by the Seller.

6.3 The Seller shall not be liable for any direct, indirect or consequential loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Seller's negligence), nor shall any delay entitle the Buyer to terminate or rescind the contract unless such delay exceeds [180] days.

6.4 Any liability of the Seller for non-delivery of the Goods 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.

6.5 If the Seller is unable to deliver the Goods to the Buyer for reasons beyond its control, then the Goods shall be deemed to be delivered and the Seller shall be entitled to place the Goods in storage until such times as delivery may be effected and the Buyer shall be liable for any expense associated with such storage.

#### **7 ADMINISTRATION CHARGES**

While the Seller endeavours to be flexible in terms of accommodating amendments to the Buyer's delivery schedules, charges may be made for cancellation up to the full value of the order or for re-stocking which will incur a minimum charge of 25% of the price of the Goods.

**8 RISK**

Risk in Goods that are shipped ex-works shall pass to the Buyer at the moment the Goods are dispatched from the Seller's premises. Otherwise risk in the Goods shall pass on delivery to the Buyer's premises.

**9 TITLE**

Title in the Goods shall not pass to the Buyer until the Seller has been paid in full for the Goods.

**10 WARRANTY**

10.1 The Guarantee period is 12 months from the date of invoice.

10.2 Where the Goods have been manufactured by the Seller and are found to be defective within the Guarantee period, the Seller shall repair, or in its sole discretion, replace defective Goods free of charge.subject to the following conditions:

10.2.1 the Buyer notifying the Seller in writing immediately upon the defect becoming apparent and obtaining written authorisation from the Seller to return the Goods. Any Goods returned without authorisation will not be accepted and charges may be incurred.

10.2.2 the defect being due to the faulty design, materials or workmanship of the Seller.

10.2 If the Seller agrees that that the returned goods are to be replaced free of charge within the guarantee period, the replacement Goods will be shipped at the Sellers expense. Otherwise, shipping will be at the Buyer's expense.

10.3 Where the Goods have been manufactured and supplied to the Seller by a third party, the Seller shall endeavour to transfer to the Buyer the benefit of any warranty granted to the Seller in respect of the Goods.

10.4 The Seller shall be entitled in its absolute discretion to refund the price of the defective Goods in the event that such price has already been paid.

10.5 All returned Goods must be securely packed and will remain the property of the Buyer. The Seller will not be liable for loss by theft, fire or any other damage until received and inspected. After investigation, the goods will be returned to the Buyer at the Buyer's expense unless the Seller has agreed to replace the Goods free of charge then ownership of the returned Goods reverts to the Seller.

10.6 The remedies contained in this Clause are without prejudice to the other Terms and Conditions herein, including, but without limitation, Clauses 11 and 12 below.

**11 LIABILITY**

11.1 No liability of any nature shall be incurred or accepted by the Seller in respect of any representation made by the Seller, or on its behalf, to the Buyer, or to any party acting on its behalf, prior to the making of this contract where such representations were made or given in relation to:

11.1.1 the correspondence of the Goods with any description;

- 11.1.2 the quality of the Goods; or
- 11.1.3 the fitness of the Goods for any purpose whatsoever.
- 11.2 No liability of any nature shall be accepted by the Seller to the Buyer in respect of any express term of this contract where such term relates in any way to:
  - 11.2.1 the correspondence of the Goods with any description;
  - 11.2.2 the quality of the Goods; or
  - 11.2.3 the fitness of the Goods for any purpose whatsoever.
- 11.3 All implied terms, conditions or warranties as to the correspondence of the Goods to any description or the satisfactory quality of the Goods or the fitness of the Goods for any purpose whatsoever (whether made known to the Seller or not) are hereby excluded from the contract.

## **12 LIMITATION OF LIABILITY**

Where any court or arbitrator determines that any part of Clause 10 above is, for whatever reason, unenforceable;

- 12.1.1 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 or the contract shall be limited to the contract price; and
- 12.1.2 the Seller shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the contract.
- 12.2 Nothing contained in these Terms and Conditions shall be construed so as to limit or exclude the liability of the Seller for fraud, or for death or personal injury resulting from the Seller's negligence or that of its employees or agents.

## **13 INTELLECTUAL PROPERTY RIGHTS**

All Intellectual Property Rights produced from or arising as a result of the performance of the contract shall, so far as not already vested, become the absolute property of the Seller, and the Buyer shall do all that is reasonably necessary to ensure that such rights vest in the Seller by the execution of appropriate instruments or the making of agreements with third parties.

## **14 FORCE MAJEURE**

The Seller shall not be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, sanctions, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the Seller shall be entitled to a reasonable extension of its obligations. If the delay persists for such time as the Seller considers unreasonable, it may, without liability on its part, terminate the contract.

**15 RELATIONSHIP OF PARTIES**

Nothing contained in these Terms and Conditions shall be construed as establishing or implying any partnership or joint venture between the parties and nothing in these Terms and Conditions shall be deemed to construe either of the parties as the agent of the other.

**16 ASSIGNMENT AND SUB-CONTRACTING**

The contract between the Buyer and Seller for the sale of Goods shall not be assigned or transferred, nor the performance of any obligation sub-contracted, in either case by the Buyer, without the prior written consent of the Seller.

**17 WAIVER**

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.

**18 SEVERABILITY**

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

**19 GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.