

DOLD INDUSTRIES LIMITED, STANDARD TERMS & CONDITIONS FOR THE SALE OF GOODS

1. Interpretation

- 'BUYER'** Means the person who accepts a quotation of the seller for the sale of the Goods or whose order for the goods is accepted by the Seller.
- 'GOODS'** Means the goods, which the Seller is to supply in accordance with these Conditions.
- 'SELLER'** Means DOLD INDUSTRIES LTD (registered in ENGLAND & WALES under number 35992203).
- 'CONDITIONS'** Means the standard terms and conditions of sale set out in this document and includes any special terms and conditions agreed in writing between the Buyer and the Seller.
- 'CONTRACT'** Means the contract for the purchase and sale of the goods.

2. Basis of the Sale

- 2.1 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 these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.
- 2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representative of the Buyer and the Seller.

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 by the seller's authorised representative.
- 3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in the seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 3.3 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 all costs, damages, and expenses incurred by the Seller as a result of cancellation.

4. Price of the Goods

- 4.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted the price listed in the Seller's published price list current at the date of acceptance of the order.
- 4.2 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 or any change in the 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.

5. Terms of Payment

- 5.1 The Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after dispatch of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the seller shall be entitled to invoice the Buyer for the price at any time after the seller has notified the Buyer that the Goods are ready for collection or the Seller has tendered delivery.
- 5.2 The Buyer shall pay the price of the Goods within a period of 30 days following the month of invoice, and the Seller shall be entitled to recover the price. The time of payment of the price shall be of the essence of the Contract.
- 5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the seller, the Seller shall be entitled to (a) Cancel the contract or suspend any further deliveries to the Buyer (b) Charge the Buyer interest on the amount unpaid, at the rate of 3 percent per annum above Bank base rate from time to time, until payment in full is made.

6. Delivery

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the seller's premises or, if a place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.
- 6.2 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. Time for delivery shall not be of essence of the Contract unless previously agreed by the Seller in writing.
- 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 shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.4 If the seller fails to deliver the Goods (or any instalments) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.5 If the Buyer unreasonably fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then the Seller may store the Goods until actual delivery and charge the Buyer for the reasonable costs of storage.

7. Risk and Property

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer;
- 7.1.1 In the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection: or
- 7.1.2 In the case of Goods to be delivered otherwise than at the Seller's premises, 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 Sellers 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 shall be entitled to resell or use the Goods in the ordinary course of its business.
- 7.4 Until such time as the property 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. Warranties and Liability

- 8.1 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 their initial use or 12 months from delivery, whichever is the first to expire.
- 8.2 The above warranty is given by the Seller subject to the following conditions:
- 8.2.1 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;
- 8.2.2 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;
- 8.2.3 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;
- 8.2.4 The above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.
- 8.3 Subject as expressly provided in these Conditions, 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.
- 8.4 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 (whether or not delivery is refused by the buyer) be notified to the Seller 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. 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.
- 8.5 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 or their failure to meet specification is notified to the Seller in accordance with these Conditions, 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.
- 8.6 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 (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 any loss of profit or 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 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 Conditions.
- 8.7 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. Act of God, explosion, flood, tempest, fire or accident; War or threat of war, sabotage, insurrection, civil disturbance or requisition; Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; Import or export regulations or embargoes; Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party); Difficulties in obtaining raw materials, labour, fuel, parts or machinery; Power failure or breakdown in machinery.

9. Indemnity

- 9.1 If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Buyer, the Seller shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:
- 9.1.1 The Seller is given full control of any proceedings or negotiations in connection with any such claim;
- 9.1.2 The Buyer shall give the Seller all reasonable assistance for the purposes of any such proceedings or negotiations;
- 9.1.3 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 (which shall not be unreasonably withheld);
- 9.1.4 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);
- 9.1.5 The Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (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
- 9.1.6 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.

10. Insolvency of Buyer.

- 10.1 This clause applies if:
- 10.1.1 The Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a Company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 10.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
- 10.1.3 The Buyer ceases, or threatens to cease, to carry on business; or
- 10.1.4 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.
- 10.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to 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 to the contrary.

11. General

- 11.1 Any notice 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.
- 11.2 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.
- 11.3 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 of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 11.4 The Contract shall be governed by the laws of England and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.