

Micro Custom Design Limited - Conditions of Sale

1. DEFINITIONS

"The Seller" means Micro Custom Design Limited.

"The Purchaser" means the party to whom goods are invoiced.

"The Goods" goods which the seller is to supply in accordance with these Conditions of Sale.

2. QUOTATIONS ORDERS AND ACCEPTANCE

2.1. These conditions apply to all orders and/or contracts whether oral or otherwise and override all conditions stipulated by the Purchaser and any other agreements between the parties relating to the sale of goods by the Seller.

2.2. These conditions together with the price, quantity and delivery details stated in the Seller's invoice and/or acknowledgement constitute the entire agreement between the Seller and the Purchaser. The conditions may not be varied unless so agreed in writing by a duly authorised employee of the Seller.

2.3. Orders can be accepted only if an official order number is quoted by the Purchaser. If a telephone order is confirmed in writing the Purchaser must mark such written order with any confirmation reference given by the Seller when the order was accepted on the telephone. Otherwise the Seller cannot accept liability for any duplication of delivery that may occur.

2.4. Quotations are not offers by the Seller but merely invitations to treat. Quotations are valid for thirty days only. The seller reserves the right to sub-contract at its discretion any part of the work or the supply of any goods referred to in its quotations.

3. THE PRICE

3.1. The price of the Goods is the price stated in the Seller's quotation or such other price as is expressly agreed by the Seller and the Purchaser

3.2. In the event of the price not being fixed by clause 3.1 the price is the price listed in the Seller's published price list current at the date when the contact is made.

3.3. Where at any time before delivery of the Goods :-

3.3.1 There is an increase in the cost of materials or labour or

3.3.2 There are currency fluctuations increasing the cost of materials
The Seller may adjust the price accordingly.

3.4. The price of the goods in the Seller's quotation does not unless otherwise stated on the quotation include freight/postage and packing all of which will be charged for and paid by the purchaser as an addition to the price shown on the quotation.

3.5. The price of the goods stated in the Seller's quotation and charge for freight/ postage and packing does not include Value Added Tax which will be added to the invoice at the applicable rate and paid by the purchaser.

4. DELIVERY

4.1. Delivery of the Goods shall be by the Seller delivering the goods to an independent carrier chosen by the Seller, for onward transmission to the Purchaser, in accordance with the Purchaser's delivery instructions

4.2. If the Purchaser fails to accept the Goods or fails to give the Seller adequate delivery instructions the Seller may:-

4.2.1. Store the goods until actual delivery to the Purchaser or until the Goods are disposed of under clause 4.2.2. The Purchaser shall be liable for the costs of storage and insurance of the Goods under this Clause.

4.2.2. Sell the Goods at the best price readily obtainable. The Purchaser shall be liable to pay the costs of the sale. Further, if the Goods are sold for less than the price payable by the Purchaser, the Purchaser shall be liable to pay to the Seller the difference in price.
This does not affect any other right or remedy the Seller may have.

4.3. Any delivery dates stated are approximate only and the Seller is not liable for any delay in delivery of the Goods, however caused. Time of

delivery is not of the essence of the Contract.

5. PAYMENT

5.1. The seller may invoice the Buyer for the price of the Goods on or at any time after the seller delivers the goods to the Purchaser.

5.2. The Purchaser must pay the price for the Goods by the end of the month following the month of Delivery of the Goods. The time for payment of the price is of the essence of the contract.

5.3. The Seller reserves the right to suspend deliveries where payment is not received in accordance with 5.2, or in accordance with any other alternative arrangements which shall be agreed in writing between the parties. No cash or other discount will be allowed.

5.4. The seller may charge interest on unpaid invoices and will do so at the rate payable on judgement debts.

6. CANCELLATION OF ORDERS

Orders for Goods may not be cancelled or suspended without the Seller's prior written consent. The Seller shall be under no obligation to consent but if the Seller does consent the Purchaser agrees to indemnify the Seller against any loss incurred by the Seller wholly or in part of such cancellation or suspension.

7. PROPERTY AND RISK

7.1. Ownership of the Goods remains with the Seller and will not pass to the Purchaser until one of the following occurs;

7.1.1. The Seller is paid for all of the Goods and no other amounts are owed by the Purchaser to the Seller in respect of other goods supplied by the Seller.

7.1.2. The Purchaser sells the Goods in accordance with this agreement in which case ownership of the goods will pass to the Purchaser immediately before the Goods are delivered to the Purchaser's customer.

7.2. The Purchaser must store the Goods separately from any other goods until;
They become the Purchaser's property or
they are delivered to another purchaser by the original purchaser.

7.3. If the Purchaser is overdue in paying for the goods or any other goods supplied by the Seller, the Seller may if still the owner of the Goods, recover and resell them. The seller may enter the Purchaser's premises for this purpose. This does not affect any other right of the Seller.

7.4. Until the Purchaser has paid the Seller for the Goods and all other goods which the Seller has supplied to the Purchaser:-

7.4.1. The purchaser holds the goods on trust for the Seller.

7.4.2. If the Purchaser sells the Goods, the Purchaser shall hold the proceeds of sale on trust for the Seller in a separate Bank account.

7.4.3. The seller may trace the proceeds of sale that the Purchaser receives into any bank or other account which the Purchaser maintains.

7.4.4. If the Purchaser sells the Goods, the Seller may, by written demand, require the Purchaser to assign to the Seller the Purchaser's rights to recover the price from its purchaser.

7.4.5. The Purchaser must not assign to any other person any rights arising from a sale of the Goods without the Seller's written consent.

7.5. Risk in the Goods passes to the Purchaser when the seller delivers the goods to an independent carrier in accordance with clause 4.1

8. LIABILITY

8.1. The Purchaser must carefully examine the Goods immediately on delivery of them and must notify the Seller in writing of any short delivery or any defects reasonably discoverable on careful examination. This notification must be received by the Seller within 10 days commencing with the day of delivery to the Purchaser. In the absence of notification the Seller excludes all liability in respect of any short delivery or any defect which

should reasonably have been discovered on careful examination.

8.2. Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable for any consequential or indirect loss suffered by the Buyer whether this loss arises from breach of duty in contract or tort in any other way (including loss arising from the Seller's negligence). Non-exhaustive illustrations of indirect loss would be:-

8.2.1. loss of profit

8.2.2. loss of contracts.

8.2.3. Damage to the Purchaser's property or property of any other person.

8.2.4. Personal injury to the Purchaser or any other person, other than that caused by the Seller's negligence.

The Purchaser accepts that it is his responsibility to insure against these risks.

8.3. Except in respect of death or personal injury caused by the Seller's negligence the Seller's total liability for any one claim or for the total of all claims arising from any one act or default of the Seller (whether arising from the Seller's negligence or otherwise) shall not exceed the price of the goods as defined in clause 3.

9. FORCE MAJEURE

The Seller shall not be under any liability of whatsoever kind for failure to perform in whole or in part its obligations under the Contract due to causes beyond its control either of the Seller or of the Seller's suppliers, including, but not limited to, acts of God, acts of the Purchaser or a third party, war, sabotage, insurrection, Government Regulations, embargoes, strikes, labour disputes, illness, flood, fire, tempest, delay in delivery to the Seller or the Seller's suppliers or shortage of any goods or materials. In any such event the seller may, without liability, cancel or vary the terms of the Contract including, but not limited to, extending the time for performing the contract for a period of time at least equal to the time lost by reason of such event.

10. INSOLVENCY

If the Purchaser ;

10.1. Being a Company

10.1.1. Has a petition for presentation for its winding up; or

10.1.2. Passes a resolution for voluntary winding-up (other than for the purposes of a bona fide amalgamation or reconstruction) or;

10.1.3 Enters into a voluntary arrangement with its creditors or

10.1.4. Becomes subject to an administration order; or

10.1.5. Has a receiver appointed of all or any of its assets; or

10.2 Being an individual or firm

10.2.1. Becomes bankrupt or insolvent; or

10.2.2. Enters into a voluntary arrangement with creditors; then the Seller shall be entitled to treat the Contract as being at an end or suspend any further deliveries under the Contract. If the Goods have been delivered but not paid for, the price shall become due immediately, regardless of any previous agreement to the contrary.

11. PATENTS AND TRADE MARKS

No representation, warranty or indemnity is given by the Seller that the goods do not infringe any Letters Patent, Trade Marks, registered Designs or other industrial rights.

12. INDEMNITY

The Purchaser shall indemnify the Seller in respect of all damage or injury occurring to any person or property and against all actions, suits, claims demands, charges or expenses in connection therewith for which the Seller may become liable in respect of the goods sold under this Contract in the event that the damage or injury shall have been occasioned by the negligence of the Purchaser or his servants or agents.

13. WARRANTY

The Seller will make good by repair or at the Seller's option by the supply of a replacement defects which under proper use appear in the goods within a period of 12 calendar months after the Goods have been delivered and arise solely from faulty design materials or workmanship. Provided always that

the defective parts are promptly returned by the Purchaser carriage paid to the Seller's works unless otherwise arranged.

14. EXCLUSION OF LIABILITY

Apart from those terms set out above no other terms expressed or implied statutory or otherwise form part of this Contract.

15. SEVERANCE

15.1 Each of the sub-clauses in this clause is to be treated as separate and independent

15.2. If a Court finds that any sub-clause in this clause fails the requirements of reasonableness under the Unfair Contract Terms Act 1977 the Seller nevertheless excludes the relevant liability to the extent that the Court finds reasonable.

16. PROPER LAW

The Contract shall be governed by and read and construed in accordance with the Law of England and Wales.

11 March 2001