

1 Definitions

The expressions "the Company" and "Bluemay" both mean Bluemay Limited or any division thereof. "Buyer" means the party ordering the goods and/or services ("Goods") from the Company; "Carrier" means an independent contractor for the delivery or collection of Goods and shall include any Royal Mail delivery services; and "the Contract" means a contract for the purchase and sale of the Goods personal to the parties hereto and not capable of assignment. Words imputing one gender shall include the other and the singular shall include the plural.

2 Prevailing conditions

These conditions of sale apply to the supply of Goods by the Company unless otherwise agreed in writing. The Company does not accept the Buyer's conditions of purchase or any amendment or variation to these conditions of sale unless expressly agreed in writing.

3 Price

The Price of Goods shall be the price agreed between the Company and the Buyer or, where no prior agreement is made, the Company's price for the item(s) in question on the day of despatch, to which will be added, unless otherwise agreed in writing, a charge for carriage and packing. Any applicable Value Added Tax or its equivalent or replacement will be added to this total. Where the Buyer is domiciled abroad but the goods are for delivery within the United Kingdom, Value Added Tax or its equivalent or replacement will be levied unless arrangements for the supply of proof of export are made to the satisfaction of the Company.

4 Delivery

- a) Unless otherwise agreed in writing, the cost of the delivery of Goods shall be borne by the Buyer and shall be by means of a Carrier to be agreed between the Buyer and the Company and in default of Agreement in the absolute discretion of the Company.
- b) Where orders are for delivery to a destination outside the United Kingdom, the Channel Islands and the Isle of Man, unless otherwise agreed in writing Goods will be sold and despatched on Incoterms 2020 EXW. If agreed in writing, Goods will be despatched Incoterms 2020 DAP. In all such cases the Buyer is responsible for insurance and for any duties, tariffs, customs clearance and levies of any kind due on the import of the Goods to the country concerned and the Company is not responsible for any such charges or for any delays in delivery caused by the said import process.
- c) The delivery date or dates specified on the Company's quotation or Buyer's order are estimates only. The Company shall not be liable for failure to deliver by such date or dates or for any damage or loss arising directly or indirectly out of any delay.
- d) Where normal Royal Mail delivery services are used and there is no proof of delivery, delivery shall be regarded as having taken place within two days of despatch by first class post and within four days of despatch by second class post.

5 Payment

- a) Subject to (b) below, terms of payment for Goods delivered hereunder shall be "strictly nett cash with order", with payment in £ Sterling with the order to allow production to commence, unless otherwise expressly agreed in writing by the Company.
- b) Application may be made to the Company for credit terms or for payment in a currency other than in £ Sterling or for a combination of credit terms and payment in a currency other than £ Sterling which will be considered entirely at the discretion of the Company, or the Company may offer such facility again entirely at its discretion. The default terms of payment for such credit accounts shall be "Strictly nett cash 30 days from date of invoice" unless other terms are agreed in writing by the Company.
- c) Notwithstanding anything herein to the contrary, the Company reserves the right to suspend its performance of the Contract to which the invoice relates and/or any other Contract then subsisting between the parties or to withdraw credit terms from the Buyer where the Buyer has failed to make a payment by the due date or upon the happening of any event which in the Company's opinion adversely affects the Buyer's ability to discharge his outstanding or future liabilities to Bluemay and any such suspension or withdrawal of credit terms shall not render the Company liable for payment of damages or penalty of any kind to the Buyer.
- d) Without prejudice to any other right or remedy available to it, the Company reserves the right to charge interest on all overdue accounts at the rate of 5% per annum above the base rate of Barclays Bank plc for the time being in force.
- e) No discounts will be given unless specifically agreed when the order is placed and no discount given for past dealings shall bind future dealings.

6 Claims

- a) All claims for damage to Goods in transit must be submitted in writing by the Buyer to the Company (and to the Carrier in the event of delivery by an independent contractor) within three days of the date of delivery or, in the event of non-delivery, within 14 days of the date of invoice or advice of despatch, whichever is the earlier.
- b) The Buyer shall give the Company immediate written notice of any claim of variation of Goods supplied against the order given to enable the Company to investigate the complaint before the remainder of the consignment is used or returned to the Company, and no claims can be allowed unless made within seven days of the date of delivery.
- c) If within 30 days of the date of delivery the buyer shall notify the Company that it has a valid claim based on any shortage or defect in the quality or condition of Goods or their failure to meet specification, the Company shall be entitled to make good the shortage, replace Goods free of charge or take such remedial steps as it sees fit or at the Company's absolute discretion refund to the Buyer the Price (or a proportionate part thereof) and the Company shall have no further liability to the Buyer.
- d) The Company's express warranty set out in sub-clause c) above is given in lieu of and excludes all other warranties guarantees and assurances whether express or implied statutory or otherwise.

7 Risk and property

- a) Unless otherwise agreed in writing, the risk in Goods supplied shall pass to the Buyer on delivery thereof except in relation to Goods purchased for delivery outside the United Kingdom, the Channel Islands and the Isle of Man when Goods shall be at the risk of the Buyer when they leave the Company's factory or warehouse. Where the Buyer collects or arranges for a Carrier to collect Goods, delivery (and therefore the passing of risk) shall be deemed to have taken place on acceptance of the consignment of Goods by the Buyer or the Buyer's Carrier.
- b) Property in Goods supplied is retained by the Company and title in Goods supplied shall not pass to the Buyer until payment has been made in full (including interest if chargeable) and until such payment is made the Buyer holds the Goods as the Company's fiduciary agent and bailee only and shall keep Goods separate from those of the Buyer and third parties. The Buyer may sell such Goods in the ordinary course of business but shall hold the proceeds of any such sale on trust for the Company and shall identify and keep separate such proceeds from other sums until payment by the Buyer to the Company of all sums due. Following a demand for delivery up thereof or if Goods remain unpaid the Buyer irrevocably and unconditionally authorises the Company, its employees and its agents to enter the premises of the Buyer (or any premises reasonably thought by the Company to be used by the Buyer) for the purpose of recovering Goods and the costs of recovering Goods shall be payable by the Buyer on demand.
- c) Until property in Goods passes in accordance with sub-clause b) above the Buyer shall insure the Company's Goods against fire theft and other day-to-day hazards for a sum to be not less than the price owed to the Company.

8 Insolvency of the Buyer

If the Buyer becomes insolvent has a receiver appointed of its business or is compulsorily or voluntarily wound up or if the Company bona fide believes that any of such events may occur the Company shall be entitled at its discretion without prejudice to any other remedy to suspend the performance of or terminate the Contract and in the event of termination to keep or take possession of any Goods and with its employees and/or agents to enter any premises of the Buyer (or any premises reasonably thought by the Company to be used by the Buyer) for the purpose of recovering Goods and the costs of recovering Goods shall be payable by the Buyer on demand.

9 GDPR

The Company will process such information as is necessary for the fulfilment of contracts for the purchase and sale of Goods in accordance with the Company's GDPR policy statement as available to view and download on the Company website and requires appropriate data security provisions on the part of the Buyer in respect of personal data and information concerning individuals with which it has business dealings.

10 Property of the Buyer

Where the Buyer has paid for Goods in whole or in part which the Buyer leaves in the possession of the Company (including but not limited to tooling for the manufacture of Goods) or where raw materials or tooling or components of any kind have been issued free of charge by the Buyer for the manufacture of Goods by the Company, the Company will store and insure such Goods at its premises or those premises the Company at its absolute discretion deems suitable for such purposes. If the Buyer does not place orders for the use of the Goods so stored for a period of five years (or such other period of time which the Company at its absolute discretion deems reasonable in the circumstances) the Company will request the Buyer to recover the Goods at the expense of the Buyer. Should the Buyer decline to recover the Goods or fail to give a decision within a period of time deemed reasonable by the Company, notice may be given to the Buyer by the Company of the impending sale, disposal or destruction of the Goods in any way the Company deems appropriate. Lack of response within reasonable time by the Buyer to notification(s) given properly by the Company shall be deemed to be permission by the Buyer for such sale, disposal or destruction of the Goods by the Company without recourse to compensation for the Buyer in any form whatsoever.

11 Exceptions

The Company shall not be responsible for any failure to fulfil any term or condition of this agreement if and to the extent that fulfilment has been delayed, hindered or prevented by any circumstances whatsoever whether pertaining before, on or after the date of agreement to supply Goods which are not within the reasonable control of the Company including without limiting the generality of the foregoing: war or other hostilities, civil disorder, strikes, lock out, other industrial action; earthquake, flood, fire, and other natural physical disasters; legislation; shortage of materials; or any other form of force majeure.

12 Warranties and Liabilities

- a) Nothing in these Conditions shall be deemed to exclude or restrict the Company's liability for death or personal injury resulting from the Company's negligence.
- b) The Company gives no representation or warranty that Goods supplied are suitable or fit for any particular purpose notwithstanding that the sale honours or is deemed to honour the purpose for which Goods are required and, subject to sub-clause f) below, the Buyer shall only be entitled to rely on the fitness of Goods for a specific purpose if such recommendation has been communicated by the Company to the Buyer in writing before the date of the order.
- c) Any advice or recommendation given by the Company, its employees or agents to the Buyer or its employees or agents as to the storage, application or use of Goods, which is not confirmed in writing by the Company, is followed or acted upon entirely at the Buyer's own risk and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.
- d) The Company shall not be liable to the Buyer for any loss or damage caused to property save to the extent that such damage or loss arises as a result of Goods sold hereunder having been used for a specific purpose recommended by the Company in writing or to the extent that such loss or damage is attributable to the negligence of the Company or its employees and it is deemed reasonable that the Company shall be so liable.
- e) The Company shall not be liable to the Buyer for any consequential loss or damage to the Buyer resulting from the supply or non-supply of the items ordered by the Buyer.
- f) Notwithstanding sub-clause b) above, where the Company supplies samples of Goods to the Buyer, either approval or absence of rejection of the samples by the Buyer prior to the placing of an order or to the performance of the contract shall cause the Buyer to indemnify the Company against any claim in respect of the suitability or fitness of Goods for any particular purpose.
- g) Without prejudice to any of the foregoing, the Company's total liability for any one claim or for the total of all claims arising from any one act or default of the Company (whether arising from the Company's negligence or otherwise) shall not exceed the Price of the Goods through which the loss or damage arises.

13 Product awareness

It shall be the responsibility of the Buyer to instruct his employees or agents on the safe handling of any goods supplied by the Company including, without limiting the generality of the foregoing, such operational tolerances specified in the Company's printed or electronically published technical literature for the time being in issue and to ensure that those to whom the goods are distributed or resold are similarly instructed. In the event of any claim against the Company the Buyer may be held to have contributed to or be responsible for an injury unless it can be proved that adequate steps were taken to pass on relevant information about the use of the Company's products.

14 Variation

Any neglect, forbearance or indulgence on the part of the Company relating to its strict rights hereunder or the terms hereof shall in no way be deemed a waiver implied or otherwise of such rights and terms and no waiver by the Company of any breach of the Contract shall be considered as a waiver of any subsequent breach of the same or any other provision of these Conditions.

15 General

Each clause of these Conditions shall be separate and distinct and shall not be in any way limited by reference to any other clause or the order in which the same occur. Titles given to clauses are for reference only and do not in any way prejudice or influence the meaning.

16 Applicable Law

The construction, validity and performance of these Conditions shall be determined in accordance with English Law and is to be enforceable exclusively through the English Courts.

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