

UGS LTD

CONDITIONS OF SALE

1. General

The conditions of sale ("the Conditions") supplied by UGS ("the Company") to the purchaser ("the Buyer") shall be deemed incorporated into each contract ("the Contract") made by the Company for the sale of the Company's goods ("the Goods"). No conditions or terms of purchase of the Buyer shall apply to any contract. No variation of any of the conditions shall be effective unless in writing and signed by a duly authorised representative of the company.

2. Quotations and Acceptance of orders

- The Contract shall become binding only upon confirmation of acceptance of any order by the Company in writing and accordingly all quotations or tenders made and any price or product lists supplied by the Company shall be treated as invitations to treat only.
- Subject to clause 5 (c) any quotation by the Company remains open for acceptance for 30 days from the date on which the Company sends the quotation to the Buyer unless the quotation specifically refers to an alternative period during which the quotation shall remain valid. If no quotation is rendered the price set out in the Company's price list which is in force on the date of the Goods are delivered or collected (as the case may be) shall apply, with any discounts granted by the Company in writing.
- The placing of an order by the Buyer shall be conclusive evidence that the Buyer having checked the quotation is fully satisfied that the quotation is in accordance with its requirements.

3. Specifications

- If Goods are supplied in accordance with the Buyers specification ("the Specification") the Buyer shall be solely responsible for the specifications and ensuring that they are accurate.
- The Buyer shall be responsible for supplying these specifications within a sufficient time to enable the company to perform the contract in accordance with its terms.
- The specification and design of the Company which without prejudice of the generality of the foregoing shall include illustrations, drawings, weights and dimensions are, unless expressly stated otherwise, subject to modification or improvement and must be regarded as approximate representations only and are not binding unless expressly stated to be so and such a title and copyright in the specifications submitted by the Company shall remain vested in the Company.
- The Buyer agrees that it shall not disclose to any third party any of the information relating to the Company's specification without prior written consent of the company or the party in whom title and copyright in the specification is vested.

4. Packaging

Packaging of the Goods shall be at the discretion of the Company which shall have the right to pack the Goods in such a manner and with such materials and in such quantities as it in its absolute discretion thinks fit unless detailed packaging and instructions are received from the Buyer prior to agreeing a price for the Goods.

5. Price

- All prices shall be as stated by the Company.
- All prices shall be exclusive of any applicable value added tax which the Buyer shall be additionally liable to pay the company
- The Company shall be entitled to increase the price if the cost of the Goods is increased as a result of increase in wages or materials, fluctuation in exchange rates or any other causes beyond the Company's reasonable control and the Company shall notify the Buyer of any variation before delivery of the Goods.
- In respect of all delivery of Goods within the United Kingdom, the cost of all packaging cases containers and pallets will be charged to the Buyer at replacement cost if they are not returned carriage paid and undamaged within three months of the date of delivery of Goods.

6. Payment

- Liability of payment for the Goods supplied shall arise on delivery and payment in cash is due without abatement deduction or set-off on the last day of the month following the month in which the Goods are dispatched unless specifically agreed in writing by the Company.
- Sums unpaid after the due date shall bear interest until the day payment is received at the rate of 5% per annum above the base lending rate from time to time of Barclays Bank plc accruing from day to day from the date of delivery until the date of payment in full.
- Without prejudice to any other rights or remedies of the Company any default of the Buyer in making payment on the due date shall entitle the Company to suspend deliveries under the Contract or any other contract so long as the default continues and to treat the Contract as repudiated by the Buyer and determined if the Buyer has not within 7 days of receiving written notice from the Company paid at all sums due to the Company.

7. Delivery

- Delivery shall take place when the Goods are unloaded or delivered to the Buyer's premises or other delivery location agreed between the Company and the Buyer collects or arranges collection of the Goods from the Company's premises or nominates a carrier for the goods delivery shall take place when the Goods are loaded at the Company's Premises.
- Time for delivery shall not be of the essence unless previously agreed by a Director of the company in writing. The Company will use its best endeavours to complete delivery on or before any delivery dates requested by the Buyer or estimated by the Company, but will not be liable for any delay in delivery.
- The Buyer shall accept immediate delivery when delivery is tendered or arranged to collect the goods when notified that they are available for collection.
 - effect delivery by whatever means it thinks most appropriate; or
 - store the goods at the Buyers risk and expense pending delivery; or
 - re-sell or otherwise dispose of the goods without prejudice to any other rights the company may have against the Buyer for breach of contract or otherwise
- Where the Contract provides for delivery by instalments each instalment shall constitute a separate contract and any failure or defect in any one or more instalments delivered shall not entitle the Buyer to repudiate the Contract nor to cancel any subsequent instalments.
- The Buyer shall not be entitled to reject the Goods by reason only of short delivery.
- The quantity of the Goods delivered under the Contract shall be recorded by the Company upon dispatch. The Company's records shall be accepted by the Buyer as conclusive evidence of the quantity delivered.
- It is the Buyers responsibility to notify the Company if the correct quantity of Goods have not been received by the Buyer within 3 working days of the date of receipt to the Company's invoice. If no notification is made, the Buyer shall be deemed to have received the Goods.

8. Examinations and Claims

- The Buyer shall upon delivery examine the Goods and shall promptly (but in any event within 3 working days of delivery) notify in writing the Company and the carrier of any damage or defect.
- Notwithstanding the provisions of 8 (a) the Buyer shall comply with the carriers rules and regulations and requirements as and when appropriate to enable the Company to make a claim against the carrier in respect of any damaged or loss in transit.
- Claims in respect of damage defects or shortages not apparent on examination under (a) must be notified in writing to the Company within twenty-one days of the date of delivery.
- Notification under (a) and (c) above shall be first made by telephone then by notice in writing delivered by facsimile or by first class post recorded delivery mail and addressed to the Company at the address shown overleaf. In default of such notification the Company shall, subject to claim which the Buyer may under the guarantee and warranty referred to in clause 9, be deemed conclusively to have properly performed its obligations under the Contract.

9. Guarantee and warranty

- The Goods may be supplied with the benefit of a guarantee ("a Guarantee") specifically submitted by the Company which has been accepted by both parties as appropriate and fair.
- If a Guarantee under (9) (a) does not apply the company warrants ("the Warranty") only that the Goods are reasonably free from defects in design (other than a design submitted or specified by the Buyer) and will be free of any material defect for six months from the date of delivery ("the Warranty Period") provided always that in respect of Goods, materials, parts or components supplied but not manufactured by the Company the Warranty will be equivalent to the Warranty (if any) which the company may have received from the manufacturer or supplier of such goods, materials or components but not as to impose a liability greater than that imposed on the Company by the aforesaid Warranty and for a period which is no longer than the warranty period, and provided that the Buyer has given to the Company written notice and satisfactory proof of any defect promptly upon discovery of such defect but in no case later than 7 days after the expiry of the Warranty period.
- The Company's obligations to the Buyer under the warranty shall not apply.
 - to damage caused by the Buyer's or any third party's act, default of misuse of the goods or by failure to follow any instructions supplied with the Goods
 - If the Goods have been stored, handled or applied in such a way that damage is likely to occur.
 - If the goods are altered, modified or repaired in any place other than the Company's factory or premises or by persons expressly approved in writing by the company;
 - If the Buyer shall not have paid by the due date for payment for all Goods supplied whether under the Contract or under any contract between the Company and the Buyer;
 - in respect of any defect in the Goods arising from any drawing, design or specification by the Buyer
- 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 forms implied by statute or common law are excluded to the fullest extent permitted by law.
- Subject to (c) above, the Company shall as its sole option repair or replace the Goods or refund the purchase price for the Goods found to be defective in design materials or workmanship
- Save for liability for death or personal injury arising from the Company's negligence and for liability under the Consumer Protection Act 1987 (if applicable), the Company's obligations to repair refund or replace as aforesaid shall constitute the full extent of the Company's liability in respect of any loss or damage sustained by the Buyer whether caused by any breach of the Contract or by misrepresentation or by the negligence of the Company, its

employees or agents or arising from any other cause whatsoever and the Company shall not be liable for any consequential, economic, direct or indirect loss suffered by the Buyer arising there from.

- The cost to the company of, and incidental to the return by the Buyer to the Company of any of the Goods delivered hereunder shall, except to the extent that the Company has accepted responsibility hereunder, be the responsibility of the Buyer who shall indemnify the Company against such costs including, but without limitation to the generality of the foregoing, costs of transport and testing or any other cost or loss to the Company arising therefrom.
- Notwithstanding sub-clause (f) above the Buyer shall, except where he is the person who suffers personal injury or death or loss or damage to property such as to give rise to a claim under the Consumer Protection Act 1987, indemnify the Company against all loss, damage, liability, legal fees and cost arising from any such claims made against the Company under the Consumer Protection Act 1987.

10. Property and Risk

- Risk shall pass to the Buyer on delivery, or (in the case of Goods which are to be collected by the Buyer) when the Buyer is notified that the Goods are available for collection. The Goods should be insured accordingly by the Buyer.
- Property (both legal and beneficial in the Goods shall remain in the Company until all sums owing to the Company whether under the Contract or any other contract between the Company and the Buyer made prior to the date of the Contract ("the indebtedness") shall have been paid in full. Until such time the Buyer shall hold the Goods as bailee for the Company.
 - The Buyer until otherwise notified by the Company or on the happening of any of the events specified in (iv) ("the Events") may in the ordinary course of the business sell the Goods ("the Resale") subject to the stipulations ("the Stipulations") imposed in (iii)
 - The Stipulations are that until the indebtedness has been fully discharged:
 - The Goods shall not be converted into another product or mixed with other goods to make another product ("the New Product") nor will the Buyer sell the New Product and pass property in it ("the Sale") but if the Buyer is in breach of the above provisions does convert or mix the Goods property in the New Product shall vest and remain in the Company until property in the Goods would have passed to the Buyer.
 - The Resale shall be for the account of the Company and the Company may by written notice require the payment to it of the proceeds of the Resale ("the Proceeds") to the extent of the indebtedness and the Buyer shall forthwith on receipt of such notice or as soon as thereafter as it shall receive the proceeds make such payment, and if not such notice is served, the Buyer shall retain the Proceeds in a separate bank account to the order of the Company and not mix them with any other monies.
 - in the event of a breach by the Buyer of its obligations under (A) or (B), the Company shall have the right to trace the proceeds in to any other monies with which they may have been mixed and the Buyer shall indemnify the Company on a full indemnity basis against loss, damage, cost or expenses incurred in such tracing;
 - until the Resale the Company shall have the right to repossess the Goods or take possession of the New Product at any time and for this purpose shall have the right to enter on any premises or land in the ownership or possession of the buyer and remove the Goods and/or the New Product notwithstanding that they are affixed to such premises or land and the Buyer shall indemnify the Company on a full indemnity basis against loss, damage, cost and expenses so arising including loss, damage, costs or expenses in respect of third party claims.
- The Goods and the New Products shall until their Resale or Sale be stored separately and shall be clearly marked as the property of the Company
 - The Events are:
 - the giving of any notice to the Buyer that a receiver, manager, administrative receiver, supervisor, nominee, administrator or other similar person is to be or has been appointed over any of the property or assets of the Buyer or that a petition to wind up the Buyer to be has been presented or that an application for an administration order to be or has been or any notice of a resolution to wind up the Buyer (save for the purpose of a bona fide reconstruction or amalgamation).
 - a decision by the Buyer that the Buyer intends to make any arrangements or compositions with its creditors generally;
 - any distress or execution levied or threatened to be levied on any property or assets of the Buyer
 - the inability of the Buyer to pay its debts as they fall due.
 - On receipt of notification from the Company under (ii) or on the happening of any of the Events, the Buyer shall cease to be able to resell the Goods and the buyer shall immediately deliver the Goods and the New Product property in which is then reserved to or vested in the Company to such address as the Company shall specify in default of which, or in the alternative, the company shall have the right to enter on any premises or land in the ownership or possession of the Buyer who shall indemnify the Company on a full indemnity basis against all loss, damage, costs or expenses so arising including loss, damage cost or expenses in respect of third party claims.

11. Breach by or Insolvency by the Buyer

If the Buyer shall not comply with any of its obligations to the Company or upon the occurrence of any of the events referred to in Clause 10 (b), the Company shall have the right Forthwith to terminate the Contract but without affecting any other claim, right or remedy of the company against the Buyer

12. Cancellation, Suspension and Termination

- If the Buyer shall purport to cancel the whole or any part of the Contract, the Company may by notice in writing to the Buyer elect to treat the Contract as repudiated and the Buyer shall thereupon be liable to pay the Company by way of liquidates damages a sum equal to all the expenses incurred by the Company in connection with the Contract including an appropriate amount in respect of administration overheads, cost and loss of profit. The company's reasonable estimate of the expenses incurred shall be final and binding on the parties.
- If for any cause whatsoever beyond its control the Company is unable to make any delivery on the applicable delivery date or perform any of its obligations under the Contract, the company may by notice in writing to the Buyer terminate the Contract or suspend the Contract without liability for any loss or damage thereby incurred by the Buyer.

13. Export and Re-sale

- In respect of sale and re-sales by the Buyer of the goods outside the United Kingdom ("Export Sales") the provisions of these conditions shall apply unless inconsistent with the terms of this clause and the Buyer shall ensure that the terms and conditions of Sale under which he or it effects re-sales of the Goods do not contain terms inconsistent or substantially different from the terms and conditions hereunder
- Unless otherwise specifically agreed between the Company and the Buyer all Export Sales shall be made C.I.F. to the Buyer's premises and Company's prices as set out in its Price List shall be increased to cover the Company's costs in making such deliveries.
- Unless otherwise agreed in writing, payment shall be made irrevocable letter of credit of presentation of the bills of lading.
- The Buyer warrants that if an import license or permit is required for the importation of the Goods into the country of destination then such Import License or permit has been obtained or will be obtained prior to shipment

14. Force Majeure

- Insofar as the performance of the contract by the Company may be effected by any strike, any lack of available shipping or transport or materials, any restriction regulation or decree by any local or municipal authority or government department or by any cause beyond the Company's reasonable control (which shall be constructed without reference to the preceding causes) the Company may elect at its absolute discretion either;
 - to terminate the contract
 - to proceed to perform or continue performance under the Contract within reasonable time after the termination of such events or circumstances
- If the company makes an election under clause 14 (a) (ii) the Buyer shall accept the Goods or such part of them as are delivered to it notwithstanding any delay.

15. Patents, Registered designs, trademarks, trade names and Copyright

The Buyer shall indemnify the Company against all damage, loss, costs, claims and expenses arising out of any infringement of any letters patent, registered design, trade mark, trade name or copyright or any claim for such infringement or any claim for passing off arising out of work carried out in accordance with the Buyer's specification

16. Right to Sub-Contract

The Company shall be entitled to sub-contract the whole or any part of the Contract without the Buyer's written consent

17. Severance

Should any one or more of these Conditions be found to be or become invalid illegal or unenforceable in any respect under any law the enforceability and validity of the remaining conditions shall not in any way be affected or impaired thereby.

18. Waiver

No waiver by the Company by the Buyer shall be considered as a waiver or subsequent breaches of the same or any other provision

19. No Agency

It is expressly agreed that the contractual and legal relationship between the Company and the Buyer is that of a Seller and Buyer and no relationship of Principal and Agent is expressed implied or inferred. The Company may either directly solicit and make sales of any of the Company's goods or products to anyone without being obligated or liable to the Buyer in any manner for or on account of any such solicitation or sale.

20. Proper Law

The Company is and shall be deemed to have been made in England and shall in all respects be governed by English Law and shall be subject to the Jurisdiction of the English Courts.