



7-11 Haltwhistle Road, Western Industrial Estate,
South Woodham Ferrers, Chelmsford, Essex CM3 5ZA

CONDITIONS OF SALE

1. Definitions and Interpretation

1.1 In these Conditions the following definitions apply:

Affiliate means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;

Applicable Law means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national;

Bribery Laws means the Bribery Act 2010 and all Applicable Laws in connection with bribery or anti-corruption;

Business Day means a day other than a Saturday, Sunday or bank or public holiday in England;

Conditions means the terms set out in this document;

Contract means the agreement between the Supplier and the Customer for the sale and purchase of the Goods incorporating these Conditions and the Order, and including all its schedules, attachments, annexures and statements of work;

Control has the meaning given to it in section 1124 of the Corporation Tax Act 2010 and Controls, Controlled and under common Control shall be construed accordingly;

Customer means the named party in the Contract which has agreed to purchase the Goods from the Supplier and whose details are set out in the Order;

Documentation means any descriptions, instructions, manuals, literature, technical details or other related materials supplied in connection with the Goods;

Force Majeure means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for performance of the Contract, strike, lockout or boycott or other industrial action including those involving the Supplier's or its suppliers' workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;

Goods means the goods and related accessories and other physical material set out in the Order and to be supplied by the Supplier to the Customer in accordance with the Contract;

Location means the address or addresses for delivery of the Goods as set out in the Order or such other address or addresses as notified by the Supplier to the Customer at least 48 hours prior to delivery;

Order means an order for the Goods from the Supplier placed by the Customer in substantially the same form set out in the Schedule below;

Price has the meaning given in clause 3.1;

Specification means the description or Documentation provided for the Goods and their packaging set out or referred to in the Contract;

Supplier means Arbor Trading Limited whose registered office address is at 46-54 High Street, Ingatestone, Essex. CM4 9DW;

VAT means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Goods; and

Warranty Period has the meaning given in clause 9.1.

1.2 In these Conditions, unless the context requires otherwise:

1.2.1 a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);

1.2.2 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;

1.2.3 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;

1.2.4 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;

1.2.5 a reference to a gender includes each other gender;

1.2.6 words in the singular include the plural and vice versa;

2 Application of these Conditions

2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.

2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.

2.3 No variation of these Conditions or to an Order or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each of the Supplier and the Customer respectively.

2.4 Each Order by the Customer to the Supplier shall be an offer to purchase the Goods subject to the Contract including these Conditions.

2.5 If the Supplier is unable to accept an Order, it shall notify the Customer in writing as soon as reasonably practicable.

2.6 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Goods shall arise, until the earlier of:

2.6.1 the Supplier's written acceptance of the Order; or

2.6.2 the Supplier dispatching the Goods or notifying the Customer that they are available for collection (as the case may be).

2.6 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply the Goods and are incapable of being accepted by the Customer.

2.7 Marketing and other promotional material relating to the Goods are illustrative only and do not form part of the Contract.

3 Price

3.1 The price for the Goods shall be as set out in the Order or, where no such provision is set out, shall be as advised by the Supplier from time to time before the date the Order is accepted (**the Price**).

3.2 All Prices are exclusive of:

3.2.1 packaging, delivery, insurance, shipping carriage, and all other related charges or taxes which shall be charged in addition at the Supplier's standard rates, and

3.2.2 VAT.

3.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.

3.4 The Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Goods which is due to any factor beyond the control of the Supplier.

4 Payment

4.1 The Supplier shall invoice the Customer for the Goods, partially or in full, at any time following acceptance of the Order.

4.2 The Customer shall pay all invoices:

4.2.1 in full without deduction or set-off, in cleared funds within the period stated on the invoice; and

4.2.2 to the bank account nominated by the Supplier.

4.3 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

4.3.1 the Supplier may, without limiting its other rights, charge interest on such sums at 8% a year above the base rate of the Bank of England from time to time in force, and

4.3.2 interest shall accrue on a daily basis and apply from the due date for payment until actual payment in full, whether before or after judgment.

5 Credit Limit

The Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

6 Delivery

6.1 Time of delivery is not of the essence but the Supplier shall use its reasonable endeavours to meet delivery dates requested by the Customer.

6.2 The Goods shall be deemed delivered upon their arrival at the Location.

- 6.3 The Supplier may deliver the Goods in instalments. Any delay or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 6.4 The Goods may be delivered by instalments and any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 6.5 The Supplier shall not be liable for any delay in or failure of delivery caused by:
- 6.5.1 the Customer's failure to make the Location available;
 - 6.5.2 the Customer's failure to prepare the Location to receive the Goods;
 - 6.5.3 the Customer's failure to provide the Supplier with adequate instructions for delivery of the Goods;
- 6.6 If the Customer fails to accept delivery of the Goods the Supplier shall store the Goods pending delivery, and the Customer shall pay storage charges at the rate of £1 per item per day pending collection.

7 Risk

Risk in the Goods shall pass to the Customer on delivery.

8 Title

- 8.1 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Goods.
- 8.2 Until title to the Goods has passed to the Customer, the Customer shall:
- 8.2.1 hold the Goods as bailee for the Supplier;
 - 8.2.2 store the Goods separately from all other material in the Customer's possession;
 - 8.2.3 take all reasonable care of the Goods and keep them in the condition in which they were delivered;
 - 8.2.4 insure the Goods from the date of delivery: (i) with a reputable insurer (ii) against all risks (iii) for an amount at least equal to their Price (iv) noting the Supplier's interest on the policy;
 - 8.2.5 ensure that the Goods are clearly identifiable as belonging to the Supplier;
 - 8.2.6 not remove or alter any mark on or packaging of the Goods;
 - 8.2.7 on reasonable notice permit the Supplier to inspect the Goods during the Customer's normal business hours and provide the Supplier with such information concerning the Goods as the Supplier may request from time to time.
- 8.3 If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clauses 14.2.1 or 14.2.2, the Supplier may:
- 8.3.1 require the Customer, at the Customer's expense, to re-deliver the Goods to the Supplier; and
 - 8.3.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

9 Warranty

- 9.1 The Supplier warrants that the Goods shall, for the period of months stated (on sales quote) from delivery (the Warranty Period):
- 9.1.1 conform in all material respects to the Order and the Specification;

- 9.1.2 be free from material defects in design, material and workmanship; and
- 9.1.3 be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 9.2 As the Customer's sole and exclusive remedy, the Supplier shall, at its option, repair, replace, or refund the Price of any of the Goods that do not comply with clause 9.1, plus the cost of shipping those Goods, provided that the Customer:
- 9.2.1 served a written notice on Supplier during the Warranty Period requesting the Goods to be collected
- 9.2.2 provides, at the same time, information about the nature and extent of the defects and the uses to which the Goods had been put prior to the defect arising;
- 9.2.3 agrees a date on which the Goods will be made available for collection by the Supplier.
- Goods returned with no fault found may incur a nominal charge for cleaning and rewrapping
- 9.3 The provisions of these Conditions, including the warranties set out in clause 9.1, shall apply to any of the Goods that are repaired or replaced with effect from the date of delivery of the repaired or replaced Goods.
- 9.4 The Supplier shall not be liable for any failure of the Goods to comply with clause 9.1:
- 9.4.1 where such failure arises by reason of wear and tear, wilful damage; modification or through negligence on the part of any person other than the Supplier;
- 9.4.2 to the extent caused by the Customer's failure to comply with the Supplier's instructions in relation to the Goods, including any instructions on installation, operation, storage or maintenance;
- 9.4.3 for slight variations in the colour of the Goods;
- 9.4.4 to the extent caused by the Supplier following any specification, instruction or requirement of or given by the Customer in relation to the Goods;
- 9.4.5 where the Customer uses any of the Goods after notifying the Supplier that they do not comply with clause 9.1.
- 9.5 Except as set out in this clause 9:
- 9.5.1 the Supplier gives no warranties and makes no representations in relation to the Goods; and
- 9.5.2 shall have no liability for their failure to comply with the warranty in clause 9.1 and all warranties and conditions, whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

10 Anti-Bribery

- 10.1 For the purposes of this clause the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 10.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that all persons involved in performing the Contract so comply.
- 10.3 Without limitation to clause 10.2, neither party shall make or receive any bribe (which term shall be construed in accordance with the Bribery Act 2010) or other improper payment or advantage or allow any such bribe or improper payment or advantage to be made or received on its behalf, either in the United

Kingdom or elsewhere and shall implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.

- 10.4 The Customer shall immediately notify the Supplier as soon as it becomes aware of a breach by the Customer of any of the requirements in this clause 10.

11 Indemnity and Insurance

- 11.1 The Customer shall indemnify the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract.
- 11.2 The Customer shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom or such other country by agreement in writing with the Supplier to cover its obligations under the Contract. On request, the Customer shall supply (so far as is reasonable) evidence of the maintenance of the insurance and all of its terms from time to time applicable.

12 Limitation of Liability

- 12.1 Unless otherwise agreed in writing, the extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 13.
- 12.2 The liability of the parties shall not be limited in any way in respect of death or personal injury caused by negligence, nor for fraud.
- 12.3 Subject to clause 13.x the Supplier's total liability shall not exceed the Price, and the Supplier shall not be liable for any consequential, indirect or special losses.

13 Force Majeure

Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure.

14 Termination

- 14.1 The Supplier may terminate the Contract or any other contract which it has with the Customer at any time by giving notice in writing to the Customer if:
- 14.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;
 - 14.1.2 the Customer commits a material breach of the Contract which is not remedied within 30 Business Days of receiving written notice of such breach;
 - 14.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid 30 days after the date that the Supplier has given notification to the Customer that the payment is overdue; or
 - 14.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.
- 14.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:
- 14.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;

14.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 (or if the Supplier reasonably believes that to be the case)

14.3 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause it shall immediately notify the Supplier in writing.

14.4 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

15 Entire Agreement

15.1 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them in respect of its subject matter.

15.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract.

16 Variation

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.

17 Assignment

The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent.

18 Set-off

The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

19 No partnership or agency

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

20 Severance

20.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

20.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

21 Waiver

A waiver of any term, provision, condition or breach of the Contract by the Supplier shall only be effective if given in writing and signed by the Supplier, and then only in the instance and for the purpose for which it is given.

22 Conflicts

If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail to the extent of the conflict.

23 Third party rights

A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

24 Data Protection

The Supplier's Data Protection and Privacy policies are published on www.arbortrading.co.uk.

25 Governing Law

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

26 Jurisdiction

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims) and will consent to any proceedings being case managed and tried in the Chelmsford County Court.

SCHEDULE: ORDER FORM



Customer Name:
Address:
Contact:
Delivery Location:
Goods

Reference	Goods	Description	Price
-----------	-------	-------------	-------

Preferred delivery dates/periods:

The terms and conditions which apply to this Order are Arbor's Conditions of Sale published on www.arbortrading.co.uk.

The Customer has read and agrees to those Conditions of Sale.

Signed by or on behalf of the Customer

.....Date.....

Name.....Position.....

Accepted by or on behalf of the Supplier

.....Date.....

Name.....Position.....