

## TERMS AND CONDITIONS OF SALE AND SUPPLY

### **The Buyer's attention is drawn in particular to the provisions of clause 9 (Limitation of Liability).**

#### 1. INTERPRETATION

- 1.1 In these conditions:  
'BUYER' means the person who accepts the 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 (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions.  
'SELLER' means REICH DRIVE SYSTEMS UK LIMITED (registered in England under number 09029331).  
'CONDITIONS' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and Seller.  
'CONTRACT' means the contract for the purchase and sale of the Goods.  
'WRITING' includes email and facsimile transmission.

- 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

- 1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

#### 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 terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.
- 2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.
- 2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5 Any samples, drawings, descriptive matter, or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's brochures, catalogues or on the Seller's website are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and shall not have contractual force.
- 2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance or offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of 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 in Writing by the Seller's authorised representative.
- 3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 3.3 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).
- 3.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

- 3.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

- 3.6 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 the terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges 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.
- 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 (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in 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.
- 4.3 Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex work basis, and where the Seller agrees to deliver to Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

- 4.4 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

#### 5. TERMS OF PAYMENT

- 5.1 Subject to any special terms agreed in Writing between the Buyer and Seller, the Seller shall be entitled to invoice the Buyer for the price of Goods on or at any time after delivery 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 (as the case may be) the Seller has tendered delivery of the Goods.
- 5.2 The Buyer shall pay the price of the Goods within 30 days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.3 If the Buyer fails to make any payment on the date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 5.3.1 cancel the Contract or suspend any further deliveries to the Buyer;
- 5.3.2 appropriate any payment made by the Buyer to such of the Goods (or the Goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyers); and
- 5.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 4% above Yorkshire Bank plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

#### 6. DELIVERY

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed 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 howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 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 in accordance with these Conditions or any claim by the Buyer in respect of any one or more 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 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 costs 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 fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise then by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

- 6.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable cost (including insurance) of storage;
- 6.5.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.
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 the 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 Seller's 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. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- 7.4. Until such time as the property in the 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 moneys 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. WARRANTY
- 8.1. Subject to the Conditions set out below it is warranted 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 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. If a claim is made by the Buyer under the warranty set out in clause 8.1 the Seller shall (subject to clause 8.2) at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full, provided that:
- 8.3.1 the Buyer gives notice in writing to the Seller during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 8.1;
- 8.3.2 the Seller is given a reasonable opportunity of examining such Goods; and
- 8.3.3 the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost.
- 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. Where the Goods are sold under consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976 the statutory rights of the Buyer are not affected by these Conditions.

9. LIMITATION OF LIABILITY
- 9.1. Nothing in these Conditions shall limit or exclude the Seller's liability for:
- 9.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 9.1.2. fraud or fraudulent misrepresentation;
- 9.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- 9.1.4. defective products under the Consumer Protection Act 1987; or
- 9.1.5. any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
- 9.2. Subject to clause 9.1:
- 9.2.1 the Seller shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 9.2.2 the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.
10. FORCE MAJEURE
- 10.1. 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:
- 10.1.1 Act of God, explosion, flood, tempest, fire or accident;
- 10.1.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 10.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 10.1.4 import or export regulations or embargoes;
- 10.1.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
- 10.1.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 10.1.7 power failure or breakdown in machinery.
11. INSOLVENCY OF BUYER
- 11.1. This clause applies if:
- 11.1.1 the buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 11.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
- 11.1.3 the Buyer ceases, or threatens to cease, to carry on business; or
- 11.1.4 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.
- 11.2. 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 or arrangement to the contrary.
12. GENERAL
- 12.1. 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 or such address as may at the relevant time have been modified pursuant to this provision to the party giving the notice.
- 12.2. 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.
- 12.3. 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 provision of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 12.4. The Contract shall be governed by the laws of England.