

Upton Group UK Ltd

Terms & Conditions of Trading

## **1. Definitions**

"Buyer" means the person or company who accepts the sellers quotation for the sales 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 terms;

"Order" means the buyer's acceptance of the sellers quotation for the goods or the order placed by the seller for the goods whether by means of individual quotation, any published seller's catalogue or website which the buyers accept;

"Quotation" means the written quotation setting out the price of the goods provided by the seller to the buyer;

"Seller" means Upton Group UK Limited whose registered address is Unit 5, Treleigh Industrial Estate, Jon Davey Drive, Redruth, TR16 4AX.

"Terms" means the standard terms of sale set out in the document and includes any special terms agreed in writing between the seller and buyer;

These terms govern the sale of the goods sold by the seller to the buyer named on the order Form provided on the sellers web site, catalogue, quotation or other order form via fax or post provided by the seller and where the goods are supplied as a result of the buyer's acceptance of the quotation. The completed order form or quotation together with the terms constitute the entire and only agreement between the parties in relation to the sale of the goods and comprises a legally binding contract between the parties.

## **2. price and payment**

2.1 The buyer may place an order following a written or verbal quotation from the seller and the prices of the goods will be detailed in the said quotation.

2.2 If the buyer accepts the sellers quotation then the prices contained therein are only valid for the period of 14 days from the date of the quotation. If the buyer wishes to order the goods stated in the quotation after this period then a new quotation should be obtained or an enquiry made as regards the price of the goods upon making an order.

2.3 Notwithstanding the above clauses the seller reserves the right by giving written notice to the buyer at any time before delivery, to vary the price of the goods to reflect any increase/decrease in cost to the seller which is due to any factor beyond the control of the seller.

2.4 The buyer shall be responsible for any charges for V.A.T., carriage and insurance in addition to the price for goods unless otherwise agreed in writing between parties.

2.5 Subject to clause 2.6, the seller must receive payment for the total price of the goods and any applicable charges for V.A.T. carriage and insurance, before the order can be accepted unless otherwise agreed in writing.

2.6 If the buyer has a credit account with the seller, payment shall be made in full within 30 days of the date of invoice sent by the seller to the buyer in relation to the goods. Time shall be of the essence for payment. The seller shall be entitled to revoke any credit facility if the buyer fails to make payment by the due date.

### **3. Delivery and title**

3.1 Delivery of the goods shall be made by the seller to the address of the buyer as stipulated on the order, or by buyer collecting the goods at the sellers premises at any time after the seller has notified the buyer that the goods are ready for collection. A signature indicating safe receipt of the goods will be required on delivery or collection.

3.2 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.

3.3 If the buyer fails to take delivery of the goods then without limiting any other right or remedy available to the seller, the seller may store the goods until actual delivery and charge the buyer for the reasonable costs (including insurance) of storage.

3.4 Risk of damage to or loss of the goods shall pass to the buyer:

a) in the case of goods to be delivered at the buyers 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: b) in the case of goods being collected from the seller's premises, at the time when the seller notifies the buyer that the goods are available for collection.

3.5 Notwithstanding delivery and the passing of risk in the goods, or any other provision of these terms, the property in the goods shall not pass to the buyer until the seller (or the sellers assignee in the case of assigned invoices) has received payment in full of the price of the goods together with any charges in respect of V.A.T, carriage and insurance.

3.6 Until such time as the property in the goods passes to the buyer, the seller may at any time require the buyer to deliver up the goods to the seller, and if the buyer fails to do so forthwith, enter on any premises of the buyer or any third party where the goods are stored and repossess the goods.

#### **4. Availability**

4.1 The seller shall endeavor to hold sufficient stock to meet all orders, however if there are insufficient stock to supply or deliver the goods already paid for by the buyer, the seller shall, at its discretion, supply or deliver a substituted product or refund to the buyer the price paid for the goods as soon as possible and in any event within 30 days.

4.2 Customised products. The seller shall be entitled to vary the quantity of any customised products by plus or minus 10% of the total order. Or as specified in a quotation.

#### **5. Cancellation and returns**

5.1 Where the buyer returns goods to the seller for reasons other than such goods being defective or faulty, the seller reserves the right to charge the buyer a fee in respect of restocking the said goods.

5.2 The buyer is required to ensure that any goods being returned to the seller are safely and securely packaged to ensure that they are returned undamaged and suitable for re-sale. The seller reserves the right to charge the buyer for any goods which it is unable to re-sell.

#### **6. Liability**

6.1 A claim by the buyer which is based on any defect in the quality, quantity or condition of the goods shall be notified to the seller or (where the defect or failure was not apparent on reasonable inspection) within 7 days of the discovery of the defect or failure. If delivery is not refused and the buyer does not notify the seller accordingly, the buyer shall have no right to reject the goods and the seller shall have no liability for such defect or failure, and the buyer shall be bound to pay the price as if the goods had been delivered in accordance with the contract.

6.2 Where the buyer does notify the seller that there is a valid claim in respect of any of the goods the seller may replace or repair the goods or at its discretion refund to the buyer the price of the goods, in which case the seller shall have no further liability to the buyer. For the sake of clarity, the seller shall not be liable to the buyer for any loss or damage arising out of any problem in relation to the goods and shall have no liability to pay any money to the buyer by way of compensation other than any refund made under these terms. This does not affect the buyers statutory rights as a consumer, nor is it intended to exclude the sellers liability to the buyer for fraudulent misrepresentation or for death or personal injury resulting from the sellers negligence.

6.3 Subject to clause 6.4 the seller warrants that the goods will be free from defects in material and workmanship for a period of 6 months from the date of

delivery unless otherwise stated in writing.

6.4 The seller shall be under no liability in respect of any defect in the goods arising from any drawing or specification supplied by the buyer;

6.4 a) The seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, external force, damage caused by the buyer or any other party, or damage caused by the incorrect installation, use, modification or repair of the goods;

6.4 b) The seller shall be under no liability under the above warranty if the total price for the goods has not been paid by the due date for payment;

6.4 c) The above warranty does not extend to parts, materials or equipment not manufactured by the seller;

6.4 d) The above warranty is given solely to the buyer and is not transferable to any third party.

## **7. Termination**

The seller shall be entitled to suspend further supply or delivery, stop any goods in transit or immediately terminate the contract with the buyer by notice in writing if the buyer is in breach of an obligation hereunder or becomes unable to pay its debts when they fall due or proceedings are taken against the seller (or the seller's assignee in the case of assigned invoices) in accordance with these terms becomes immediately due and payable and the seller shall be under no further obligation to supply any goods to the buyer.

## **8. Force Majeure**

The seller shall have no liability to the buyer for any failure or delay in supply or delivery or for any damage or defect to the goods supplied or delivered hereunder that is caused by any event or circumstance beyond our reasonable control (including without limitation strikes, lockouts, acts of god and the like).

## **9. General**

If any part of these conditions is invalid, illegal or unenforceable (including any provision in which the seller excludes its liability to the buyer) the validity, legality or enforceability of any other part of these conditions will not be affected. This contract shall be governed by and interpreted in accordance with English law.

### **UPTON GROUP UK LTD**

Unit 5  
Treleigh Industrial Estate  
Jon Davey Drive  
Redruth

Cornwall  
TR16 4AZ