

Terms and Conditions of Sale

1. Definitions

1.1 'Buyer' means the person who accepts a quotation of the Company for the sale of Goods whose order for the Goods is accepted by the company.

1.2 "Company" means ComCat Engineering Ltd

1.3 "Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing between the Company and the Buyer.

1.4 "Contract" means the contract for the purchase and sale of the Goods.

1.5 "Delivery Date" means the date specified by the Company when goods are to be delivered.

1.6 "Goods" means the articles, which the Buyer agrees to buy from the Company.

1.7 "Price" means the price for the Goods, excluding transport, packing and insurance.

1.8 "OEM" means the Original Equipment Manufacturer.

1.9 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.

2 Basis of Sale

2.1 These conditions shall apply to all contracts for sale of Goods by the Company to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under purchase order, confirmation of order or similar document.

2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these conditions.

2.3 The company operates on a business to business basis and any order placed by an individual is deemed to be a business to business transaction.

2.4 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyers acceptance of the conditions.

2.5 Any variation of the Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Company.

2.6 Any advice or recommendation given by the Company or its employees to the Buyer or its employees or agents, is followed or acted upon entirely at the Buyer's own risk, and accordingly the Company shall not be liable unless any such advice or recommendation is confirmed by:

2.6.1 any advice or recommendation as to the identification of a part required for a specified application must be confirmed by the Company with an Enquiry Number,

2.6.2 any advice or recommendation as to the storage, application or use of the Goods must be confirmed in writing by the Company.

2.7 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without liability on the part of the Company.

3 Payment and Price

3.1 The Price shall be the Company's quoted Price which shall be binding on the Company provided that the buyer shall accept the Company's quotation within thirty days. The Price is exclusive of value added tax which shall be additional at the rate ruling on the date of the Company's invoice.

3.2 If a Credit Account has been agreed by the Company payment of the Price and VAT shall be due within 30 days from the end of the month on the invoice unless otherwise agreed in writing with the Company without deduction or set off. Time for payment shall be of the essence.

3.3 The Company 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 Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, increase in costs from our suppliers, significant increase in the cost of labour, materials or the 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 instructions of the Buyer or failure of the Buyer to give the Company adequate information or instructions.

3.4 If the Buyer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company it shall be entitled to:

3.4.1 cancel the contract or suspend any further deliveries to the Buyer

3.4.2 appropriate any payment made by the Buyer, or Goods supplied under any other arrangement between the Buyer and the Company, as the Company may think fit (not withstanding purported appropriation by the Buyer) and

3.4.3 charge the Buyer interest (both before and after Judgement) of the amount unpaid at the rate of 3% per annum above Lloyds Bank plc base rate, from time to time until the payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

4 The Goods

4.1 The quantity, description and any specification for the Goods shall be set out in the Company's quotation or acknowledgement of order or, if accepted by the Company, the Buyer's order.

4.2 Where Original Equipment Manufacturers part numbers are used it is for ease of identification only and does not imply that the items have been purchased from the OEM.

4.3 The Company reserves the right to make any changes to the specification of the Goods which have been deemed necessary by the Original Equipment Manufacturer.

4.4 Where the Buyer orders a universal component it is the responsibility of the Buyer to ensure that the part is fit for the intended purpose and using it will not contravene any regulation or statute.

4.5 The Company is not responsible for the correct installation of the Goods supplied, which must be fitted by a competent person in compliance with any regulation or statute that may apply.

4.6 The Buyer shall be responsible to the Company for ensuring accuracy of the terms of any order submitted by the Buyer and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.

4.7 If the Goods are to be specially manufactured or any process in to be applied to the Goods by the Company in accordance with a specification submitted by the Buyer the Buyer shall indemnify the Company against all loss and damage, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company 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 Company's use of the Buyer's specification.

4.8 No order which has been accepted by the Company may be cancelled by the Buyer except with the agreement of the Company and on terms that the Buyer shall indemnify the Company in full against all loss (including loss of profit), costs, charges and expenses incurred by the Company as a result of cancellation.

5 Warranties and Liabilities

5.1 The Company warrants that the Goods will at the time of delivery correspond to the description set out in the Company's quotation or acknowledgement of order.

5.1.1 Where the Company provided part information and issued an Enquiry Number the Company warrants that the part will be suitable for the application detailed by the Buyer.

5.1.2 The Buyer shall only be entitled to the benefit of any warranty or guarantee against manufacturing defects as is given by the OEM or supplier to the Company. This is dependent on the policy of the OEM, which may vary between 3 months to 12 months, but often excludes certain items such as glass.

5.2 Except where the Buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977) all other warranties, conditions or terms whether implied by statute or common law or otherwise are hereby excluded.

5.3 The warranty in clause 5.1 is given by the Company subject to the following conditions:

5.3.1 the Company shall be under no liability in respect of any defect in the Goods arising from incorrect information supplied by the Buyer.

5.3.2 the Company shall be under no liability in respect of any defect from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company instructions (whether oral or in writing) misuse or alteration of the Goods.

5.3.3 The Company shall be under no liability under the above warranty (or any other warranty conditions or guarantee) if the Price and value added tax for the Goods has not been paid by the due date for payment.

5.4 Any claim by the Buyer which is based on the Goods being damaged or missing on arrival must notify the Company (whether or not delivery is refused by the Buyer) within 24 hours of receipt of the damaged Goods.

5.4.1 Any claim by the Buyer which is based on any defect In the quality or condition of the Goods or their failure to correspond with specifications shall (whether or not delivery is refused by the Buyer) be notified to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure.

5.4.2 If the Buyer does not notify the Company accordingly the Buyer shall not be entitled to reject the Goods and the Company 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.

5.5 Where any valid claim in respect of any of the Goods which is based on damage on arrival, defect in the quality or condition of the Goods or their failure to meet specifications is notified to the Company in accordance with these Conditions the Company shall be entitled to replace the

Goods (or the part in question) free of charge or at the Company's sole discretion, refund to the Buyer the Price (or a proportionate part of the Price) but the Company shall have no further liability to the Buyer for any incidental costs.

5.6 Except in respect of death or personal injury caused by the Company's negligence the Company shall not be liable to the Buyer by reason of any representation or any implied warranty condition or other term, or any duty at common law or under the express terms of the Contract for any consequential loss or damage (whether for loss of profit or otherwise costs, expenses or other claims for consequential compensation whatsoever) and whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer except as expressly provided in these conditions,

5.7 The Company 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 Company's obligations in relation to the Goods if the delay or failure is due to any cause beyond the Company's reasonable control.

6 Delivery of Goods

6.1 All dates quoted for delivery should be treated as approximate only and the Company shall not be liable for any delay in delivery of the Goods howsoever caused. Time of delivery shall not be of the essence unless previously agreed by the Company in writing.

6.2 The Buyer shall make all the arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

6.3 Where the Goods are to be delivered in installments each delivery shall constitute a separate contract and failure by the Company to delivery any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.4 If the Buyer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise by reason of any cause beyond the Buyer's reasonable control or by reason the Company's fault) then without prejudice to any other right or remedy available to the Company the Company may:

6.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage or

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 or charge the Buyer for any shortfall below the price.

7 Title and Risk

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 collected from the Company's premises at the time when the Company notifies the Buyer that the Goods are available for collection or

7.1.2 in the case of Goods to be delivered otherwise than at the time of delivery or if the Buyer wrongfully fails to take delivery of the Goods at the time when the Company has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision in these Conditions the property in the Goods shall not pass to the Buyer until the Company 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 Company 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 Company's fiduciary agent and bailee shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Company'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 Company for the proceeds of the sale or otherwise of the Goods whether tangible or intangible

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 Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company and if the Buyer fails to do so forthwith to enter 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 Company but if the Buyer does so all monies owing by the Buyer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

8 Insolvency of the Buyer

8.1 This clause applies if:

8.1.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or

8.1.2 an encumbrance takes possession or a receiver or manager or administrator receiver or administrator is appointed to any of the property or assets of the Buyer or

8.1.3 the Buyer ceases or threatens to cease to carry on business or

8.1.4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

8.2 If this clause applies then without prejudice to any other right or remedy to the Company the Company shall be entitled to cancel the contract or suspend any further deliveries under the contract without liability to the Buyer and if the Goods have been delivered but not paid for shall become immediately due and payable notwithstanding any previous agreement to the contrary.

9 Information

9.1 The Company will provide the Buyer on request with information as to the proper and safe use of the Goods and the Buyer shall at all times obey and comply with and shall ensure that any third party shall comply with the Company instructions or other information relating to the use of the Goods.

10 Returns

10.1 Goods can only be returned following authorisation from Comcat Engineering Ltd and within 30 days of invoice date. Credits will be issued on stock lines and defective items. No specially ordered parts can be returned unless proven to be faulty. All credits will be subject to a 25% restocking charge unless otherwise agreed. Full details of the Companies returns procedure is on the back of delivery notes and is available on request.

11 General

11.1 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 other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

11.2 No waiver by the Company 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.

11.3 If any provision of the Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.

11.4 The Contract and the Conditions shall be governed by the laws of Scotland.

11.5 The parties hereby submit to the exclusive jurisdiction of the Scottish courts.

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