

TALBOT DESIGNS LIMITED – CONDITIONS OF SALE

1. Interpretation

In these Conditions:

“the Seller” means Talbot Designs Limited

“the Buyer” means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.

“the Goods” means the goods (including any instalment of the goods) which the Seller is to supply in accordance with these Conditions.

“Conditions” means the standard terms and conditions of the sale set out in this document and (unless the context otherwise requires) includes any special terms agreed in writing between the Buyer and the Seller.

2. Basis of the Sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any quotation of the Seller which is in writing or accepted in writing by the Buyer, or any order of the Buyer which is accepted or confirmed in writing by the Seller (the Seller’s pro-forma Invoice being sufficient written acceptance or confirmation for the purpose), subject in either case to these Conditions, which shall govern the contract between the parties to the exclusion of any other terms and conditions unless otherwise agreed in writing between the authorised representatives of the Buyer and the Seller.

2.2 Any advice or recommendation given by the Seller or its employees or agents as to the storage, application of 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.

2.3 Any typographical, clerical or other error or omission in any quotation, acceptance of offer, invoice or other document issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3. Orders and specifications and suitability of the Goods

3.1 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 reasonable time.

3.2 Where the Goods are to be manufactured or processed 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 respect 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.

3.3 The Buyer shall take all reasonable steps to satisfy itself that the Goods will be suitable for any particular purpose required by the Buyer and that the Buyer’s specification for the Goods fully complies with any applicable safety or other statutory requirements.

3.4 Where the Seller incurs any liability or expense as a result of a claim against it under Part 1 of the Consumer Protection Act 1987 or under any other statutory or common law requirement in respect of the Buyer’s breach of the preceding clause 3.3 or otherwise relating to a defect or alleged defect in the Goods then the Buyer shall indemnify the Seller’s against such liability or expense.

3.5 No order which has been accepted by the Seller may be cancelled by the Buyer except with the written agreement of the Seller.

4. Price and terms of payment

4.1 The price of the Goods shall be the Seller’s quoted price which shall be valid for 60 days but which, unless otherwise specified, shall exclude the Seller’s charges for transport, packaging and insurance and any applicable Value Added Tax.

4.2 Where the Buyer is not an established customer of the Seller payment in advance will be required by the Seller (unless otherwise agreed in writing) and where the Buyer is an established customer of the Seller payment shall be made within 30 days following the month of invoicing (unless otherwise agreed in writing).

4.3 If payment is delayed, the Seller shall be entitled to charge interest on the amount unpaid and for the period of delay at the rate 5% per annum above Bank of Ireland Base Rate for the time being in force and, without prejudice to the foregoing, shall be entitled to cancel the contract or suspend any further deliveries to the Buyer.

5. Delivery and inspection

5.1 Delivery of the Goods (other than Goods which the Buyer has agreed to collect) shall be made by the Seller to the Buyer’s last known address, unless another address has been specified by the Buyer.

- 5.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing.
- 5.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract entitling the Seller to payment therefore.
- 5.4 The Buyer is responsible for inspecting the Goods upon receipt and to notify the Seller in writing within 3 working days thereafter if the wrong quantity has been delivered. The Buyer shall not have the right to reject the Goods if the quantity delivered deviates by no more than 10% of the contractual weight, area or volume and in any event must pay for all Goods delivered which do not exceed the contract quantity.

6. Risk and property

- 6.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of collection by or delivery to the Buyer or, if the Buyer wrongfully fails to collect or accept delivery, at the time when the Seller has tendered delivery of the Goods.
- 6.2 Notwithstanding delivery and the passing of risk in the Goods, the property in the Goods shall not pass to the Buyer until the Seller has received payments 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.
- 6.3 Until such time as the property in the Goods passes to the Buyer.
- 6.3.1 the Buyer shall hold the Goods on trust for the Seller and shall keep the Goods separate from any other goods or materials and property stored, protected and insured and identified as the Seller's property
- 6.3.2 in the event of the Buyer reselling the Goods then the Buyer shall account to the Seller for the proceeds of sale and shall keep such proceeds separate and on trust for the Seller.
- 6.3.3 the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, in default, to enter upon the premises where the Goods are stored and to repossess them.

7. Exclusions and limitations

- 7.1 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.
- 7.2 The Seller shall be under no liability of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions, misuse or alteration or repair of the Goods.
- 7.3 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.
- 7.4 Any claim by the Buyer which is based on any defect in the quality, description or fitness for purpose of the Goods shall be notified in writing to the Seller within 7 days from the date of delivery to, or collection by the Buyer, or (where the defect was not apparent from reasonable inspection) within a reasonable time after the discovery thereof. If the Seller is not so notified, the Buyer shall not be entitled to reject the Goods and the Seller shall not be liable for such defect, and the Buyer shall be obliged to pay the full contract price for the Goods.
- 7.5 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer or any third party by reason of any representation, or implied warranty condition or other term, or any duty at common law, for any consequential loss of damage, costs, expenses or other claims arising out of the manufacture or supply or the subsequent use of resale of the Goods.

8. Force Majeure

The Seller shall not be liable to the Buyer 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 including Act of God, explosion, flood, tempest, fire, accident, war or threat of war, sabotage, insurrection, civil disturbance, legal prohibition or government measures, import or export regulations or embargoes.

9. Governing Law

The contract shall be deemed to have been made in England and the interpretation, validity and performance of the contract shall be governed by the laws of England.