

**YTRON-QUADRO (UK) LIMITED**  
**TERMS AND CONDITIONS FOR THE SALE OF GOODS**

**THE BUYERS ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITION 11.4**

**1. Interpretation**

1.1 In these conditions the following words have the following meanings:

**Buyer:** the person, firm or company who purchases the Goods from the Company.

**Company:** YTRON-QUADRO (UK) LIMITED

**Contract:** any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions.

**Delivery**

**Point:** the place where delivery of the Goods is to take place under condition 4.

**Goods:** any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

**Order:** any order from the Buyer to the Company (incorporating these terms and conditions) for the supply of Goods in such form as the Company may determine from time to time

1.2 In these conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.3 In these conditions references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

1.4 In these conditions headings will not affect the construction of these conditions.

**2. APPLICATION OF TERMS**

2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document) or any other terms of the Company not contained herein or in the Order.

2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company or its website which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.4 Each Order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions.

2.5 No Order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.

2.6 The Buyer shall ensure that the terms of its Order and any applicable specification are complete and accurate.

2.7 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of 30 days only from its date unless otherwise stated and provided that the Company has not previously withdrawn it.

**3. DESCRIPTION**

3.1 The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgement of order.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures or website are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. Unless otherwise agreed in writing, these shall not form part of the Contract and the Company will not be liable for any deviation from any samples, drawings, descriptive matter and specifications supplied to the Buyer. This is not a sale by sample.

3.3 The Goods will be manufactured according to samples, drawings, descriptive matter and specifications supplied by the Buyer to the Company. These are provided to the Company for the sole purpose of providing the Company of an approximate idea of the Goods requested. Unless otherwise agreed in writing, these shall not form part of the Contract and the Company will not be liable for any deviation from any samples, drawings, descriptive matter and specifications supplied by the Buyer.

**4. DELIVERY**

4.1 Unless otherwise agreed by the Company, delivery of the Goods shall take place at the Buyer's place of business.

4.2 The Buyer will take delivery of the Goods within 30 days of the Company giving it notice that the Goods are ready for delivery.

4.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.

4.4 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

4.5 If for any reason the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

(a) risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);  
(b) the Goods shall be deemed to have been delivered; and  
(c) the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

4.6 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.

4.7 The Buyer will provide at its expense at the Delivery Point adequate and appropriate equipment and manual labour for unloading the Goods.

4.8 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

**5. Non-delivery**

5.1 The quantity and or quality of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity and or quality of the Goods received by the Buyer on delivery unless the Buyer complies with this condition 5 and can also provide conclusive evidence proving the contrary.

5.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 7 days of the date when the Goods would in the ordinary course of events have been received.

5.3 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

**6. Inspection**

6.1 The Buyer will inspect the Goods immediately they are delivered and the signature of the Buyer or of any person acting on its behalf on the delivery note will be deemed to be an acknowledgement by the Buyer that the Goods are of satisfactory quality, undamaged and in accordance with the Contract and the Company will not replace the Goods nor be under any liability to deliver any missing item, unless the Buyer:

(a) states on the delivery note that the Goods or part of them are either damaged or missing; and

(b) notifies the Company in writing within 3 working days of delivery of the Goods of the extent to which the Goods do not conform with the Contract, are damaged and/or missing;

(c) in the case of latent or hidden defects which could not reasonably be revealed on the delivery inspection such notification must be made within, whichever is the earlier, 3 working days of the date of discovery of latent or hidden defect or within 14 days of delivery; and

(d) preserves the Goods intact as delivered for a period of 28 days from notification of the claim within which time the

Company and/or any person nominated by the Company shall have the right to attend the Buyer's premises or wherever the Goods are stored to investigate the Buyer's complaint.

6.2 If the Company has agreed to transport the Goods the Company's liability for Goods lost or damaged in transit shall in all circumstances be limited to (at the Company's option) the repair or replacement of the Goods or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6.3 The Company may make good any shortages and defects notified to it in accordance with condition 6.1 above if the Company is satisfied that the complaint and notification are genuine and correct. The Company shall not be liable for any other loss whatsoever arising from any non-conformity, shortage or defects.

**7. Risk/Title**

7.1 The Goods are at the risk of the Buyer from the time of delivery.

7.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

(a) the Goods; and  
(b) all other sums which are or which become due to the Company from the Buyer on any account.

7.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

(a) hold the Goods on a fiduciary basis as the Company's bailee;  
(b) store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;

(c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and  
(d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.

7.4 The Buyer may not resell the Goods before ownership has passed to the Buyer

(a) the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

(b) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or  
(c) the Buyer encumbers or in any way charges any of the Goods.

7.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

7.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

7.8 Free issue materials are processed entirely at the Buyer's risk. All property supplied to the Company by or on behalf of the Buyer shall be held entirely at the Buyer's risk.

7.9 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 7 shall remain in effect.

**8. PRICE**

8.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Quotation

- subject to currency exchange rates published on the date of invoicing.
- 8.2 Unless otherwise agreed by the Company in writing, the price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.
- 9. PAYMENT**
- 9.1 Unless otherwise agreed the payment terms shall be those specified in the Company's quotation attached to these conditions or in the absence of any other agreed payment terms all payments shall be made within 30 days from the date of invoice.
- 9.2 Time for payment shall be of the essence.
- 9.3 No payment shall be deemed to have been received until the Company has received cleared funds.
- 9.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 9.5 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 9.6 Any reservation fee or deposit paid at the time of entering into the Contract is non-refundable.
- 9.7 In the event that the Buyer tries to cancel any Order the Buyer shall be liable to pay the Company the full agreed Contract price for all Goods under the Contract, whether or not those Goods are delivered.
- 9.8 If the Buyer fails to pay the Company any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate 6% above the base lending rate from time to time of the HSBC Bank Plc, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 10. Quality and warranties**
- 10.1 Where the Company is not the manufacturer of the Goods, the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.
- 10.2 The Company warrants that (subject to the other provisions of these conditions) upon delivery, and for a period of 12 months from the date of delivery, the Goods shall:
- (a) be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- (b) be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to the Company in writing and the Company has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgement of the Company.
- 10.3 The Company shall not be liable for a breach of any of the warranties in condition 10.2 unless:
- (a) the Buyer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 14 days of the time when the Buyer discovers or ought to have discovered the defect; and
- (b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost for the examination to take place there.
- 10.4 The Company shall not be liable for a breach of any of the warranties in condition 10.2 if:
- (a) the Buyer makes any further use of such Goods after giving such notice; or
- (b) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
- (c) the Buyer alters or repairs such Goods without the written consent of the Company.
- 10.5 Subject to condition 10.3 and condition 10.4, if any of the Goods do not conform with any of the warranties in condition 10.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company.
- 10.6 If the Company complies with condition 10.5 it shall have no further liability for a breach of any of the warranties in condition 10.2 in respect of such Goods.
- 10.7 Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the 12 month period.
- 11. LIMITATION OF LIABILITY**
- 11.1 Subject to condition 4, condition 5 and condition 11, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- (a) any breach of these conditions;
- (b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 11.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 11.3 Nothing in these conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.
- 11.4 Subject to condition 11.2 and condition 11.3:
- (a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- (b) the Company shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 12. Cancellation**
- The Contract is a legally binding agreement and is not cancellable by the Buyer without prior written consent of a Director of the Company. If the Company does agree at their absolute discretion to cancel the Contract then a cancellation charge determinable by the Company will be payable. The Company will not in any event consent to cancellation of Order's for Goods made to the Buyer's specific requirements.
- 13. ASSIGNMENT**
- 13.1 The Company may assign the Contract or any part of it to any person, firm or company.
- 13.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.
- 14. Force Majeure**
- The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 180 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.
- 15. Insurances and Licenses**
- 15.1 It is the Buyer's sole responsibility to ensure that they have adequate insurance in place to cover them when using the Goods.
- 15.2 It is the Buyer's sole responsibility to ensure that they comply with the relevant laws in relation to the Goods and that they have obtained the necessary licences and that when using the Goods they do not break any legal or other obligations.
- 16. Health and Safety**
- The Buyer must ensure that all of their operatives, premises and work carried out must comply with the Health and Safety at Work Act in its entirety and must not put the Company or anyone representing the Company at risk.
- 17. General**
- 17.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 17.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 17.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 17.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 17.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 17.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.
- 18. Communications**
- 18.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:
- 18.1.1 (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or
- 18.1.2 (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.
- 18.2 Communications shall be deemed to have been received:
- 18.2.1 if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- 18.2.2 if delivered by hand, on the day of delivery; or
- 18.2.3 if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 18.3 Communications addressed to the Company shall be marked for the attention of the Managing Director.