



TERMS & CONDITIONS OF SALE 2020-2021

1. INTERPRETATION

1.1. In these Conditions the following definitions shall apply:

"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.

"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 Ascot Pro-G Limited (registered in England under Number 10119714). "Conditions" Means the Seller's standard terms and conditions of sale as set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

"Contract" Means the contract for the purchase and sale of goods. "Writing" Includes Email and facsimile transmission.

1.2. Any reference in these Terms & 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 Terms & Conditions are for convenience only and shall not affect their interpretation.

1.4. Where the context so permits any reference to the singular shall include the plural and vice-versa.

2. BASIS OF PURCHASE

2.1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with the terms of 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 the Terms & Conditions provided herewith which shall govern the Contract between Buyer and Seller to the exclusion of any other 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 including (but not limited to) a condition that the Buyer's terms or conditions of



purchase shall prevail over these Conditions.

- 2.2.** No variation to these Conditions shall be binding unless agreed in writing by a Director of 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 the Buyer's 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 or the consequences thereof.
- 2.5.** 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 Seller shall be subject to correction without any liability on the part of the Seller.
- 2.6.** The Buyer at all times indemnifies the Seller for any claim brought against the Seller for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use of, and/or supply of the Products, Deliverables and/or Services

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 price, time of delivery, 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 any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall fully indemnify the Seller against any 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 party which results from the Seller's use of the Buyer's specification or any action taken by the Seller on instruction from the Buyer.

3.5. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform to 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 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 such cancellation.

4. PRICE OF THE GOODS

4.1. The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list as at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price



list shall apply. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller with or without giving notice to the Buyer.

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 Seller's control (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-works basis, and where the Seller agrees to deliver the Goods the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

4.4. The Seller's prices, unless expressly quoted, are exclusive of any applicable value added tax, which the Buyer shall be additionally liable for.

4.5. The full cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

5. TERMS OF PAYMENT

5.1. Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods upon dispatch or at any time after dispatch 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 case 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, unless otherwise mutually agreed in writing between the two parties, shall pay the price of the Goods (less any discount to which the Buyer may be entitled to, but without any other deduction) 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 payments will be issued only upon request.

5.3. If the Buyer fails to make any payment on the due 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 Goods supplied under any other contract between the Buyer and the Seller as the Seller may deem fit (notwithstanding any purported appropriation by the Buyer); and

5.3.3 Charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the annual rate of 4% above Barclays 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). The interest will be charged from the first overdue date until the date payment is received.

5.4. Title to the Goods shall remain vested in the Seller and shall not pass to the Buyer until the purchase price for the Goods has been paid in full and received by the Seller. Until title to the Goods passes:



- 5.4.1.** the Seller shall have authority to reclaim, sell or otherwise deal with and/or dispose of all or any part of {the Goods};
- 5.4.2.** the Seller, its agents and employees shall be entitled at any time and without the need to give notice, to enter any property in which the Goods or any portion of the Goods are stored, or in which the Seller reasonably believes the Goods are kept by the Buyer. In such circumstances the Buyer is deemed to have authorised the Seller to have legal right of way and enter the premises where the Goods are kept.
- 5.4.3.** the Buyer shall store or mark the Goods in a manner that the Buyer reasonably expects to be satisfactory to the Seller whilst always clearly indicating that title to the Goods remains vested exclusively in the Seller;
- 5.4.4.** the Buyer, from the time the goods are collected or arrive at the sea port or airport designated as the preferred sea port or airport by the Buyer, shall insure the Goods to their full replacement or invoiced value (whichever is the higher), and arrange for the entire interests of the Seller associated with the underlying transaction to be fully procured in the policy of insurance as the sole loss payee.
- 5.5.** Irrespective of whether title to the Goods remains vested in {the Seller}, risk in the Goods shall pass to the Buyer upon delivery.

6. DELIVERY

- 6.1** Delivery of the Goods can 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 has been agreed by the Seller, by the Seller delivering the Goods to that place solely at the Buyer's expense.
- 6.2** Any dates quoted for delivery of the Goods are approximate and the Seller shall not be liable for any delay in delivery of the Goods however it may have been 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 If the Seller fails to deliver the Goods for any reason within the Seller's reasonable control, other than due to a Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's sole liability, and assuming the Buyer has settled the invoice associated with the Goods in full, shall be limited to the excess (if any) of the cost to the Buyer, in the most economical-trade value of- similar Goods to replace those not delivered. Under these circumstances the Seller will demonstrate to the Buyer the availability and price of similar Goods to those not delivered and this price will be accepted by the Buyer as the price that fully determines the Buyer's total loss. For the avoidance of doubt, the Seller shall not be responsible for any consequential loss to the Buyer.

6.4 If the Buyer fails to take delivery of, or collect, the Goods or fails to give the Seller adequate delivery instructions prior to the time stated for delivery (otherwise than 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:

6.4.1. Store the Goods until actual delivery and charge the Buyer for the associated reasonable costs (including insurance) of storage; or

6.4.2. sell the Goods at the best price readily obtainable and obtain a balance, after deducting all reasonable storage and selling expenses. The Buyer will remain fully liable for the difference between the invoiced (contract) grand total price and the aforementioned balance.

7. RISK AND PROPERTY

7.1. All financial risks or loss as a result of damage to or loss of the Goods shall pass to the Buyer in their entirety: -

7.1.1. from the time point the Goods are collected by the Buyer from the Seller's premises or from another place designated by the Seller, or



- 7.1.2.** from the time point the Buyer collects the Goods from the airport or from the sea port, or
- 7.1.3.** from the time point the Goods are situated in the Buyers premises whenever they are shipped to the Buyers premises by the Seller
- 7.2.** Notwithstanding the apportionment of risks associated with the Goods either in storage with the Seller, in transit or in the possession of the Buyer, all proprietary rights associated with the Goods belong to the Seller until the Buyer has settled their invoiced cost in full and clear funds in the Sellers account may illustrate the same. Until the Goods are paid in full the Buyer is only deemed to be holding the Goods in Trust for the Seller.
- 7.3.** Until the Seller is in clear funds associated with the full payment of the Goods the Buyer shall hold the Goods as the Seller's fiduciary agent and Bailee and/or Trustee, and shall keep the Goods separate from other Goods in the possessions of the Buyer. The Buyer will keep the Goods properly stored, protected, insured and identified as the Seller's property, but shall be entitled to resell or use the Goods in the ordinary course of its business, as long as all associated proceeds shall be accounted to the Seller.
- Such proceeds of sale or otherwise of the Goods, whether tangible or intangible (including insurance proceeds) the Buyer shall keep 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.** The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods whose proprietary interests rest with the Seller. Should the Buyer breach this term then upon the timing of the breach, and without prejudice to any other right or remedy of the Seller, the invoice associated with the Goods becomes immediately due and interest rate at 8% over the UK LIBOR rate will apply until the invoice is paid in full.



8. LIABILITY

8.1. The Buyer acknowledges that the Seller makes no representation or warranty as to the suitability of the Goods for the Buyer's purposes and that the Seller has purchased the Goods in accordance with certificates of conformity provided by the Seller's supplier.

8.2. The Seller shall be under no liability in relation to the following:-

8.2.1 in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

8.2.2 in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration to the Goods without the Seller's written approval;

8.2.3 the unsuitability of the Goods for any particular purpose or use or storage under specific conditions whether or not the purpose or conditions were known or communicated to the Seller.

8.3. The Terms and Conditions provided in this document and except where the Goods are sold to a person transacting 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. Any claim by the Buyer which relies on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 21 days from the date of delivery. If delivery is not refused, and the Buyer does not notify the Seller within 21 days of receiving the Goods (either from the Seller's premises or from the sea port, or from the airport or from the point the Goods arrive at the Buyer's premises after being shipped by the Seller), the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such aforementioned defect or failure, and the Buyer shall be bound to pay the full invoiced price as if



the Goods had been delivered in accordance with the Contract.

8.5. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund the Buyer the price of the Goods (or such proportion of the price if the full payment had not been made), but the Seller shall have no further liability towards the Buyer.

8.6. Except in respect of death or personal injury directly caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, 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, and the entire liability of the Seller under or in connection with the Contract shall not exceed the invoice price of the Goods.

8.7. 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 some of the causes beyond the Seller's reasonable control:-

8.7.1 act of God, explosion, flood, tempest, fire or accident;

8.7.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

8.7.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;



8.7.4 import or export regulations or embargoes;

8.7.5 strikes, lock-outs or other industrial actions or trade disputes

(whether involving employees of the Seller or of a third party);

8.7.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

8.7.7 power failure or breakdown in machinery.

8.8. The Seller shall not be liable for any loss, damage, deterioration, or miss-delivery of the Goods, or in connection with the goods howsoever arising and whether or not arising from any act, neglect or default of the Seller or for any direct or indirect consequence thereof.

9. INDEMNITY

9.1. The Buyer shall indemnify the Seller against all claims relevant to any Goods supplied to the Buyer by the Seller, made by contractors and/or subcontractors of the Buyer, employees of the Buyer and customers of the Buyer, against the Seller and all costs and expenses relating therefrom.

10. INSOLVENCY OF BUYER

10.1. 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, should any of the following eventuate:-

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

10.1.2. an encumbrancer takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the Buyer; or

10.1.3. the Buyer ceases, or threatens to cease, to carry on business; or

10.1.4. 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.

10.2. If Condition 10.1 applies, and until such time as the Goods have been paid in full (provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer at its own expense to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, the Buyer hereby grants licence to the Seller to enter upon any premises of the Buyer or (to the extent permissible) the premises of any third party where the Goods are stored and to repossess the Goods. This eventuality does not in any way negate any other terms or prejudice any other remedies or legal rights available to the Seller against the Buyer.

11. EXPORT TERMS

11.1. In these conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Terms & Conditions, but if there is any conflict between the provisions of Incoterms and these Terms & Conditions, the latter shall only be legally effective.

11.2. Where the Goods are supplied for export from the United Kingdom, the provisions of this Condition 11 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision provided in this document.

11.3. The Buyer shall be solely responsible for complying with any legislation and all regulations governing the importation and post-delivery usage of the Goods in their country and for the payment of any associated duties.

11.4. Unless otherwise agreed in Writing between the Buyer and the Seller, the Goods shall be delivered F.O.B. the air or sea port of shipment and the Seller



shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979 or otherwise.

11.5. The Buyer shall be responsible for arranging the testing and inspection of the Goods at the Seller's premises before shipment by the Seller or collection by the Buyer. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

11.6 Payment of all amounts due to the Seller shall be made by irrevocable letter of credit opened by the Buyer in favour of the Seller and confirmed by a bank acceptable to the Seller.

11.7. The Buyer undertakes not to offer the Goods for resale in any other country which is banned from having the Goods imported to or expressly specified by the Seller to the Buyer at or before the time the Buyer's order is placed, or to sell the Goods to any company or person if the Buyer knows or has reason to believe that the company or person intends to resell the Goods in any such country.

12. GENERAL

12.1. The Seller may perform any of its obligations or exercise any of its rights hereunder by itself or through any associated entity, provided that any act or omission of any such other entity shall still be deemed to be the act or omission of the Seller.

12.2. 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.

12.3. 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.



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12.4. 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 provisions of these Terms & Conditions and the remainder of the provision in question shall not be affected.

13. APPLICABLE LAW

13.1. The Contract shall be governed by the laws of England and the buyer agrees to submit to the jurisdiction of the English courts.

14. AGREEMENT

14.1. Unless otherwise agreed, these Terms and Conditions will also apply to any future orders the Buyer places with the Seller. The Buyer's subsequent Orders will also be bound by these Terms and Conditions.



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