



Terms and Conditions of Sale for Kar UK Limited

1. INTERPRETATION

- 1.1 Definitions. In these Conditions, the following definitions apply:
Contract Date: has the meaning set out in clause 2.2.
Conditions: these terms and conditions as amended from time to time in accordance with clause 14.4
Contract: the contract between the Supplier and the Customer for the supply of Goods shall comprise the Sales Order Acknowledgment and these Conditions. In the event of any ambiguity the former shall prevail.
Customer: the person or firm who purchases the Goods from the Supplier.
Deliverables: the deliverables set out in the Order.
Delivery Location: has the meaning set out in clause 4.1.
Force Majeure Event: has the meaning given to it in clause 13.1.
Goods: the goods (or any part of them) set out in the Order.
Goods Specification: any specification for the Goods, supplied by the Supplier to the Customer.
Order: the Customer's order for the supply of Goods, as set out in the Customer's purchase order or the Customer's written acceptance of the Supplier's quotation.
Sales Order Acknowledgement: the written acknowledgement of the Order by the Supplier including full details of the Goods and the price.
Services: any services provided by the Supplier to the Customer.
Services Specification: the description or specification for the Services provided by the Supplier to the Customer.
Supplier: Kar (UK) Limited registered in England and Wales with company Number 07881836 of Kar Invar Road Swinton, Manchester M27 9HF.

2. THE CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues a Sales Order Acknowledgement (SOA) to the Customer at which point and on which date the Contract shall come into existence and be legally binding on the parties (Contract Date).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of Goods described in them. They shall not form part of the Contract nor have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 30 days from its date of issue.

3. GOODS

- 3.1 The Goods are (where applicable) described in the Goods Specification.
- 3.2 The Supplier reserves the right to amend the Goods Specification if any changes are made by the manufacturer of the Goods or as required by any applicable statutory or regulatory requirements.

4. DELIVERY OF GOODS

- 4.1 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer that the Goods are ready.
- 4.2 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 4.5 If the Customer fails to accept or take delivery of the Goods within 14 days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or

by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am 14 days following the day on which the Supplier notified the Customer that the Goods were ready; and
- (b) the Supplier shall store the Goods until delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 4.6 The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including 5 per cent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.
- 4.7 The Supplier may, with agreement of the Customer, deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.8 If the Supplier agrees to the return of any Goods by the Customer for any reason within 14 days of delivery save in the case of defective Goods, the Customer shall be required to pay a restocking charge of 20% of the price of the Goods or a minimum handling charge of £10 whichever is the higher.

5. QUALITY OF GOODS

- 5.1 The Supplier shall provide a warranty or where the goods are manufactured by a third party shall pass on the benefit of the manufacturers warranty, that on delivery and for a period of 12 months from the date of delivery or such period as provided for in the manufacturers warranty (warranty period), the Goods shall:
- (a) conform in all material respects with their description and the Goods Specification;
- (b) be free from material defects in design, material, and workmanship.
- 5.2 Subject to clause 5.3, if:
- (a) the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
- (b) the Supplier is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
- (b) the defect arises because the Customer failed to follow the Supplier's/manufacturers oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- (c) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- (e) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.4 Except as provided in this clause 5 the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 5.2.

6. TITLE AND RISK

- 6.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.
- 6.3 If before title to the Goods passes to the Customer the Customer becomes subject to any act of insolvency event (including but not limited to the appointment of an administrator or liquidator) then, without limiting any other right or remedy the Supplier may have:
- (a) the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
- (b) the Supplier may at any time:
- (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and



- (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them: or
- (c) if the Customer does not wish to give up possession of the Goods to make full payment immediately for the Goods.

7. CUSTOMER'S OBLIGATIONS

- 7.1 The Customer shall ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate.
- 7.2 If the Supplier is providing any Services to the Customer, it shall be the responsibility of the Customer to ensure the Services Specification is correct and ensure that the Customer's premises is safe and ready for the Services to be provided. Any failure of the Customer to comply with its obligations under this clause 7.2 shall be at the cost of the Customer.

8. CHARGES AND PAYMENT

- 8.1 The price for Goods shall be the price set out in the Sales Order Acknowledgement.
- 8.2 The Supplier reserves the right to:
 - (a) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:
 - (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
 - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods;
 - (iv) charge a restocking fee in accordance with clause 4.9.
- 8.3 The Supplier shall pay the Customer each invoice submitted by the Supplier:
 - (a) within the agreed terms of credit; and
 - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and
 - (c) time for payment shall be of the essence of the Contract.
- 8.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.
- 8.5 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 3% per annum above HSBC plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 8.6 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 8.7 Carriage for each Order shall be as follows:-
 - (a) Orders over £600 – carriage paid by Supplier, subject to the following exceptions:-
 - (i) PVC Pipe 5m Pallets;
 - (ii) PE Pipe 63m above;
 - (iii) Sand, GRP cabinets, tanks, roofs and liners;
 - (iv) Deliveries to Ireland, Northern Ireland, Scottish Highlands and all AM deliveries shall incur a surcharge;
 - (b) Orders under £600 dispatched overnight will incur a £26.00 carriage charge and on 3-day services a £12.50 carriage charge, Small boxable service (up to 20 Kilos) incur a £8.00 carriage charge. Carriage charges subject to our discretions.
 - (c) It shall be at the Supplier's discretion to accept any order less than £150.00.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 All Intellectual Property Rights in or arising out of or in connection with the Goods shall (unless otherwise stated) be owned by the manufacturer of the Goods.

10. SUPPLY OF SERVICES

- 10.1 The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
- 10.2 The Supplier shall use all reasonable endeavours to meet any performance

dates for the Services specified, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

- 10.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 10.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

11. CONFIDENTIALITY AND DATA PROTECTION

- 11.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications and price lists which are of a confidential nature and have been disclosed to the Customer by the Supplier.
- 11.2 The Supplier shall (where applicable) at all times comply with its obligations under the relevant Data Protection legislation and regulations in place from time to time in respect to any information obtained from the Customer arising out of any Contract.
- 11.3 The Supplier shall at all times comply with its obligations under the Bribery Act 2010 and any related legislation / regulations concerning its dealings with any Customer.

12. LIMITATION OF LIABILITY

- 12.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
 - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
 - (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession).
- 12.2 Subject to clause 12.1:
 - (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Goods supplied or the sum of £5,000 whichever is the lower.

- 12.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 and such other terms implied under any other relevant legislation are, to the fullest extent permitted by law, excluded from the Contract.

- 12.4 This clause 11 shall survive termination of the Contract.
- 13. FORCE MAJEURE
- 13.1 For the purposes of this Contract, **Force Majeure Event** means any event beyond the reasonable control of the Supplier.
- 13.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of any Force Majeure Event.

- 14. GENERAL
- 14.1 **Marketing:** The Supplier reserves the right to create marketing related material including, but not limited to, case studies, mailshots, e-shots, testimonials and promotional editorials based on any and all sales to the Customer, subject to the approval of the Customer.
- 14.2 **Notices:** any notice hereunder shall be in writing and may be by way of first-class post or email.
- 14.3 **Third parties:** a person who is not a party to the Contract shall not have any rights to enforce its terms.
- 14.4 **Variation:** except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the Supplier.
- 14.5 **Mediation**

- In the event of any dispute arising under a Contract the parties shall use all reasonable endeavours to resolve any dispute and shall consider but not be obliged to use appropriate ADR i.e. mediation in advance of the issue of legal proceedings
- 14.6 **Legal costs**

- In the event of any non-payment by the Customer for any Goods or Services provided under a Contract the Supplier shall be entitled to recover from the Customer all reasonable legal and associated costs incurred in recovery of the outstanding monies from the Customer.
- 14.7 **Governing law:** the Contract shall be governed by and construed in accordance with English law and any disputes arising shall be subject to the exclusive jurisdiction of the English courts.

- 14.8 **Force Majeure:** The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of any Force Majeure Event.

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