

HANTEX LIMITED

TERMS AND CONDITIONS OF SALE

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The customer's attention is drawn in particular to the provisions of clause 8

1. Interpretation

1.1 **Definitions.** In these Conditions, the following definitions apply:

“Business Day” means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

“Conditions” means the terms and conditions set out in this document as amended from time to time in accordance with clause 10.6.

“Contract” means the contract between Hantex and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

“Customer” means the person or firm who purchases the Goods from Hantex .

“Force Majeure Event” has the meaning given in clause 9.

“Goods” means the goods (or any part of them) set out in the Order.

“Order” means the Customer's order for the Goods, as set out in the Customer's purchase order form or the Customer's written acceptance of Hantex's quotation, as the case may be.

“Hantex” means Hantex Limited (registered in England and Wales with company number 2938716) whose registered office is at Whitehouse Yard, Eaudyke Friskney, Boston, Lincolnshire PE22 8NL.

1.2 **Construction.** In these Conditions, the following rules apply:

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.

1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.4 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.2.5 A reference to **writing** or **written** includes faxes and (except in the case of notices served pursuant to clause 10.2) emails.

2. **Basis of Contract**

2.1 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.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer shall ensure that the terms of the Order and any relevant specification are complete and accurate.

2.3 The Order shall only be deemed to be accepted when Hantex issues a written acceptance of the Order, or if earlier when Hantex delivers the Goods, at which point the Contract shall come into existence.

2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Hantex which is not set out in the Contract. Any samples, drawings, descriptive matter, or advertising issued by Hantex and any descriptions or illustrations contained in Hantex's catalogues or brochures or advertised on its website are issued or published for the sole purpose of giving an approximate idea of the Goods described or depicted in them. They shall not form part of the Contract or any other contract between Hantex and the Customer for the sale of the Goods.

2.5 A quotation for the Goods given by Hantex shall not constitute an offer. A quotation shall only be valid for a period of 30 Business Days from its date of issue.

3. **Delivery**

3.1 Hantex shall ensure that:

3.1.1 each delivery of the Goods is accompanied by an invoice for those Goods which shows the date of the Order, all relevant Customer and Supplier

reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

- 3.1.2 if Hantex requires the Customer to return any packaging materials to Hantex, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as Hantex shall reasonably request. Returns of packaging materials shall be at Hantex's expense.
- 3.2 Hantex shall deliver the Goods to the Customer's primary business address unless otherwise agreed between the parties in writing ("Delivery Location") at any time after Hantex notifies the Customer that the Goods are ready. Hantex is unable to deliver direct to the Customer's customer.
- 3.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 3.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Hantex 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 Hantex with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.5 If Hantex 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. Hantex shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Hantex with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.6 If the Customer fails to take delivery of the Goods within 3 Business Days of Hantex notifying the Customer that the Goods are ready, or if Hantex's carrier has been unable to deliver the Goods on three separate occasions then, except where such failure or delay is caused by a Force Majeure Event or Hantex's failure to comply with its obligations under the Contract:

- 3.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which Hantex notified the Customer that the Goods were ready; and
- 3.6.2 Hantex shall store the Goods returned to Hantex by its carrier until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 3.7 If 10 Business Days after Hantex notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, Hantex may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 3.8 The Customer acknowledges that where Hantex procures the Goods for supply to the Customer, Hantex may be obliged to procure the Goods from its supplier in standard amounts. In such circumstances the Customer shall not be entitled to reject the Goods if Hantex delivers more or less than the quantity of Goods ordered provided that Hantex shall deliver as close to the amount of Goods ordered as is practicable and invoice for the amount of Goods delivered.
- 3.9 Hantex may 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. **Quality**

- 4.1 Hantex warrants that on delivery the Goods shall:
 - 4.1.1 conform in all material respects with their description; and
 - 4.1.2 be free from material defects in design, material and workmanship.
- 4.2 Subject to clause 4.3, if:
 - 4.2.1 the Customer gives notice in writing to Hantex within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 4.1; and
 - 4.2.2 Hantex is given a reasonable opportunity of examining such Goods; and

- 4.2.3 the Customer (if asked to do so by Hantex) returns such Goods to Hantex's place of business at the Customer's cost

Hantex shall, at its option, repair or replace the defective Goods.

- 4.3 Hantex shall not be liable for Goods' failure to comply with the warranty set out in clause 4.1 if:
 - 4.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 4.2; or
 - 4.3.2 the defect arises because the Customer, or the Customer's customer, failed to follow Hantex's oral or the manufacturer's written instructions as to the storage, use and/or maintenance of the Goods or (if there are none) good trade practice; or
 - 4.3.3 the defect arises as a result of Hantex following any drawing, design or specification supplied by the Customer; or
 - 4.3.4 the Customer alters or repairs such Goods without the written consent of Hantex; or
 - 4.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.
- 4.4 Except as provided in this clause 4, Hantex shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.
- 4.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 4.6 These Conditions shall apply to any repaired or replacement Goods supplied by Hantex.

5. Title and Risk

- 5.1 The risk in the Goods shall pass to the Customer on completion of delivery to the Customer's primary business address. If the Customer requests that the Goods be delivered to any address other than its primary business address, and Hantex agrees in writing to such a delivery, risk in the Goods shall pass to the Customer on despatch of the Goods from Hantex.

5.2 Title to the Goods shall not pass to the Customer until Hantex has received payment in full (in cash or cleared funds) for:

5.2.1 the Goods; and

5.2.2 any other goods or services that Hantex has supplied to the Customer.

5.3 Until title to the Goods has passed to the Customer, the Customer shall:

5.3.1 hold the Goods on a fiduciary basis as Hantex's bailee;

5.3.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Hantex's property;

5.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

5.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery

5.3.5 notify Hantex immediately if it becomes subject to any of the events listed in clause 7.2; and

5.3.6 give Hantex such information relating to the Goods as Hantex may require from time to time

but the Customer may resell or use the Goods in the ordinary course of its business.

5.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 7.2, or Hantex reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy Hantex may have, Hantex may at any time require the Customer to deliver up the Goods and, 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.

6. **Price and Payment**

6.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in Hantex's published price list in force as at the date of delivery.

- 6.2 The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be paid by the Customer when it pays for the Goods, unless the value of the Order exceeds the Hantex Minimum Order Carriage Paid Value, details of which are set out in Schedule 1.
- 6.3 The price of the Goods is exclusive of amounts in respect of value added tax ("VAT"). The Customer shall, on receipt of a valid VAT invoice from Hantex, pay to Hantex such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 6.4 Hantex may invoice the Customer for the Goods on or at any time after the despatch of the Goods.
- 6.5 The Customer shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by Hantex by electronic transfer, cheque or credit card. Time of payment is of the essence.
- 6.6 If the Customer fails to make any payment due to Hantex under the Contract by the due date for payment ("due date"), then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above HSBC Bank Plc's base lending rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Hantex in order to justify withholding payment of any such amount in whole or in part. Hantex may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Hantex to the Customer.

7. Customer's Insolvency or Incapacity

- 7.1 If the Customer becomes subject to any of the events listed in clause 7.2, or Hantex reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to Hantex, Hantex may cancel or suspend all further deliveries

under the Contract or under any other contract between the Customer and Hantex without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due.

7.2 For the purposes of clause 7.1, the relevant events are:

- 7.2.1 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply; or
- 7.2.2 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- 7.2.3 (being an individual) the Customer is the subject of a bankruptcy petition or order; or
- 7.2.4 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- 7.2.5 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer; or
- 7.2.6 (being a company) a floating charge holder over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver; or
- 7.2.7 a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer; or

- 7.2.8 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 7.2.1 to clause 7.2.7 (inclusive); or
- 7.2.9 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; or
- 7.2.10 the financial position of Hantex deteriorates to such an extent that in the opinion of the Customer the capability of the Seller adequately to fulfil its obligations under the Contract has been placed in jeopardy; or
- 7.2.11 (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

8. Limitation of Liability

- 8.1 Nothing in these Conditions shall limit or exclude Hantex's liability for:
 - 8.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); or
 - 8.1.2 fraud or fraudulent misrepresentation; or
 - 8.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - 8.1.4 defective products under the Consumer Protection Act 1987; or
 - 8.1.5 any matter in respect of which it would be unlawful for Hantex to exclude or restrict liability.
- 8.2 Subject to clause 8.1:
 - 8.2.1 Hantex shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract; and
 - 8.2.2 Hantex'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 not exceed the price of the Goods].

9. **Force Majeure**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A "Force Majeure Event" means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

10. **General**

10.1 **Assignment and subcontracting.**

10.1.1 Hantex may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

10.1.2 The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Hantex.

10.2 **Notices.**

10.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier or fax.

10.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 10.2.1; if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, one Business Day after transmission.

10.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

10.3 **Severance.**

10.3.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

10.3.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

10.4 **Waiver.** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

10.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.

10.6 Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Customer.

10.7 **Governing law and jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-

contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

Schedule 1 - Minimum Order Carriage Paid Values.

UK Mainland : Orders over £129.99 ex vat – carriage is free

UK Mainland : Orders below £130 ex vat – carriage is £6.20

Other destinations are quoted before despatch