



**GEO. HOULTON & SONS LIMITED
STANDARD TERMS AND CONDITIONS OF PURCHASE**

1. Interpretation

1.1 When the following words with capital letters are used in these Conditions, this is what they will mean:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Buyer: Geo. Houlton & Sons Limited (registered number 01632717).

Buyer Materials: any and all materials, equipment and tools, patterns, dies, moulds, tools, blocks, plates, original artwork, photographs and transparencies, accessories, drawings, specifications, working instructions and data supplied by the Buyer to the Seller.

Conditions: these standard terms and conditions of purchase, as amended from time to time in accordance with clause 14.7, and any special terms and conditions agreed in writing by the Buyer.

Goods: the goods (or any part of them) set out in the Purchase Order.

Goods Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Buyer and the Seller, (or where no specification is agreed, as specified by the Buyer to the Seller in writing in the Purchase Order or otherwise in writing).

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Purchase Order: the Buyer's order for the supply of Goods, as set out in the Buyer's purchase order form, or in the Buyer's written acceptance of the Seller's quotation, or otherwise in writing, as the case may be.

Seller: the person who sells or agrees to sell the Goods to the Buyer.

Supply Contract: the supply agreement between the Buyer and the Seller for the sale and purchase of Goods, which incorporates these Conditions and Purchase Orders placed from time to time.

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

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) references to a party includes its successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory 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;
- (d) 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; and
- (e) a reference to writing or written includes e-mail but not fax.

2. Purchase Orders and the Supply Contract

- 2.1 Each Purchase Order submitted by the Buyer constitutes an offer to purchase the Goods from the Seller under the terms of the Supply Contract.
- 2.2 The Purchase Order shall be deemed to be accepted by the Seller on the earlier of:
- (a) the Seller issuing written acceptance of the Purchase Order; or
 - (b) any act by the Seller consistent with fulfilling the Purchase Order, including (but not limited to) despatch or delivery of Goods by the Seller to the Buyer, or commencement of manufacture for 'made to order' Goods.
- 2.3 These Conditions apply to the Supply Contract to the exclusion of any terms that the Seller seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 Each Purchase Order and its acceptance is (subject to clause 2.2) to be treated as a separate contract, and accordingly if there shall at any time be more than one Purchase Order in the course of performance between the Buyer and the Seller, and any question, dispute or difficulty shall arise in respect of one of such Purchase Orders, neither the existence of such question, dispute or difficulty nor the terms on which it may be settled shall affect in any way whatever any such other Purchase Orders. The Seller shall not be entitled to exercise in relation to any Purchase Order any right of set-off or counter-claim.

3. The Price and Payment

- 3.1 The Price for the Goods:
- (c) shall be the price set out in the Purchase Order, or if no price is quoted, the price set out in the Seller's quotation to which the Purchase Order relates; and
 - (d) shall be inclusive of the costs of packaging, packing, insurance, carriage and delivery of the Goods to the Delivery Location and any duties, imposts and levies (other than VAT), unless otherwise agreed in writing by the Buyer. No extra charges shall be effective unless agreed in writing and signed by the Buyer.
- 3.2 Except as expressly provided in the Supply Contract, no increase in the price of the Goods may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in writing.
- 3.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on the Seller's quotation or other documentation relating to the Buyer's order.
- 3.4 The Seller shall invoice the Buyer on or at any time after completion of delivery. Each invoice shall include such supporting information required by the Buyer to verify the accuracy of the invoice, including but not limited to the relevant Purchase Order number.
- 3.5 In consideration of the supply of Goods by the Seller, unless otherwise agreed in writing between the parties, the Buyer shall pay each undisputed invoice from the Seller within 60 days following the end of the calendar month of receipt of the invoice concerned, to a bank account nominated in writing by the Seller.
- 3.6 Where any taxable supply for VAT purposes is made under the Supply Contract by the Seller to the Buyer, the Buyer shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller 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.

3.7 If a party fails to make any payment due to the other party under the Supply Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above Lloyds Bank plc's base 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 defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting party disputes in good faith.

3.8 The Buyer may at any time, without limiting any of its other rights or remedies, set off any liability of the Seller to the Buyer against any liability of the Buyer to the Seller, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Supply Contract or any Purchase Order placed under it.

4. The Goods

4.1 The Seller shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Goods Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Seller or made known to the Seller by the Buyer, expressly or by implication, and in this respect the Buyer relies on the Seller's skill and judgment;
- (c) be free from defects in design, materials and workmanship and remain so for such period as may be agreed (unless some other period is specified by the Buyer in the Purchase Order or Goods Specification); and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

4.2 The Seller shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Supply Contract in respect of the Goods.

4.3 Before delivery the Seller shall carefully inspect and test the Goods for compliance with such samples, patterns, specifications and manufacturing instructions or other descriptions as the Buyer may stipulate. A certificate shall be supplied in duplicate for each individual test.

4.4 The Buyer shall also have the right to inspect and test the Goods at any time before delivery. If following such inspection or testing the Buyer considers that the Goods do not conform or are unlikely to comply with the Seller's undertakings at clause 4.1, the Buyer shall inform the Seller and the Seller shall immediately take such remedial action as is necessary to ensure compliance. Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Seller's obligations under the Supply Contract, and the Buyer shall have the right to conduct further inspections and tests after the Seller has carried out its remedial actions.

4.5 The Seller shall ensure that any items, equipment or packages supplied in connection with its Purchase Orders comply with relevant marking requirements in accordance with all relevant laws within the scope of which the Goods fall.

4.6 The Buyer may in its absolute discretion take delivery of the Goods notwithstanding that the quantity so delivered is either greater or less than the quantity purchased provided that:

- (a) such discrepancy in quantity shall not exceed 5%; and
- (b) the Price shall be adjusted pro rata to reflect the quantity actually delivered.

4.7 All representations, statements or warranties made or given by the Seller, its employees and agents (whether orally, in writing or any of the Seller's brochures, catalogues and advertisements) regarding

the quality and fitness for purpose of the Goods or any of the Goods shall be deemed to be express conditions of the Supply Contract.

4.8 The Seller shall ensure that all Goods shall be manufactured, stored, tested and packed in accordance with all British Standards applicable to them.

5. Delivery of the Goods

5.1 The Seller shall ensure that:

- (a) the Goods are marked in accordance with the Buyer's instructions and the Goods Specification and any applicable regulations or requirements of the carrier, and properly packed and secured in such manner as to enable them to reach their destination in good condition;
- (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (c) if the Seller requires the Buyer to return any packaging material for the Goods to the Seller, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Seller at the cost of the Seller.

5.2 The Seller shall deliver the Goods:

- (a) on the date specified in the Purchase Order or (subject to reasonable notice from the Buyer) on such date as is specified by the Buyer after placing the Purchase Order;
- (b) to the location as is set out in the Purchase Order or as instructed by the Buyer before delivery (**Delivery Location**);
- (c) during normal hours of business on a Business Day (or during any other usual hours of operation at the Delivery Location), or as instructed by the Buyer.

5.3 Delivery of the Goods shall be completed immediately after completion of unloading of the Goods at the Delivery Location.

5.4 Signature on behalf of the Buyer (or where applicable, the relevant third party receiving the Goods at the Delivery Location) of a delivery note or other document presented for signature on delivery of the Goods is not evidence that the correct quantity or number of Goods have been delivered or that they otherwise meet the requirements of the Supply Contract.

5.5 The Seller shall not deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Seller to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Buyer to the remedies set out in clause 6.1.

5.6 Title to the Goods shall pass to the Buyer on delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Buyer once payment has been made and the Goods have been appropriated to the Supply Contract.

5.7 Risk of damage to or loss of the Goods shall pass to the Buyer on delivery.

6. Buyer's Remedies

6.1 If the Seller fails to deliver the Goods by the applicable date(s), then without limiting any of its other rights or remedies, the Buyer shall have one or more of the following rights:

- (a) to terminate the Supply Contract with immediate effect by giving written notice to the Seller;
- (b) to refuse to accept any subsequent delivery of the Goods which the Seller attempts to make;
- (c) to recover from the Seller any costs incurred by the Buyer in obtaining substitute goods and/or services from a third party;
- (d) where the Buyer has paid in advance for Goods which have not been delivered by the Seller, to have such sums refunded by the Seller; and
- (e) to claim damages for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Seller's failure to meet such dates.

6.2 If the Seller has delivered Goods that are in the Buyer's reasonable opinion defective or in any way do not comply with the terms of the Supply Contract (including the undertakings set out in clause 4.1), then without limiting its other rights or remedies, the Buyer shall have one or more of the following rights, whether or not the Goods were accepted upon delivery:

- (a) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Seller at the Seller's own risk and expense;
- (b) to terminate the Supply Contract with immediate effect by giving written notice to the Seller;
- (c) to require the Seller to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if any has been paid);
- (d) to refuse to accept any subsequent delivery of the Goods which the Seller attempts to make;
- (e) to recover from the Seller any expenditure incurred by the Buyer in obtaining substitute goods from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Buyer arising from the Seller's failure to supply Goods in accordance with clause 4.1.

6.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Seller.

6.4 The Buyer's rights under the Supply Contract are in addition to its rights and remedies implied by statute and common law.

6.5 If the Buyer rejects the Goods (in whole or in part) under these Conditions, unless within a reasonable time of receipt of notice of rejection the Seller collects such Goods then the Buyer may dispose of them as the Buyer shall think fit (provided that if the Buyer sells such Goods the Buyer shall account to the Seller for the net proceeds of such sale).

7. Intellectual Property Rights

7.1 In respect of the Goods, the Seller warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Buyer, it will have full and unrestricted rights to sell and transfer all such items to the Buyer.

7.2 The Seller shall at the Buyer's request promptly do (or procure to be done) all such further acts and things and the execution of all such other documents as the Buyer may from time to time require for the purpose of securing for the Buyer the full benefit of the Supply Contract.

7.3 All Buyer Materials are the exclusive property of the Buyer. Accordingly (and without limiting the foregoing) any Goods Specification supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer in connection with the Supply Contract or any Purchase Order, together with the



copyright, design rights or any other Intellectual Property Rights in such specification, shall be the exclusive property of the Buyer.

- 7.4 Any unpatented knowledge or information concerning the Seller's products, methods or manufacturing processes, which the Seller may disclose to the Buyer incidentally to the manufacture or execution of the Goods covered by the Supply Contract shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as a part of the consideration for the Supply Contract, and the Seller agrees not to assert any claim against the Buyer by reason of the Buyer's use or alleged use thereof. If any Purchase Order under the Supply Contract involves experimental research or development work, the Seller agrees to grant to the Buyer an irrevocable non-exclusive and royalty-free licence to make, have made, use and sell any inventions resulting therefrom.

8. Indemnity

- 8.1 The Seller shall keep the Buyer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered incurred by the Buyer as a result of or in connection with:

- (a) any claim made against the Buyer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Seller, its employees, agents or subcontractors;
- (b) any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Seller, its employees, agents or subcontractors;
- (c) any claim made for death, personal injury or damage to property arising during such time as any person was on, entering onto or departing from the Buyer's premises for any purpose connected with the Supply Contract, to the extent that such claim arises out of any act or omission of the Seller, its employees, agents or subcontractors; and
- (d) any claim made against the Buyer by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Supply Contract by the Seller, its employees, agents or subcontractors.

- 8.2 This clause 8 shall survive termination of the Supply Contract.

9. Insurance

During the term of the Supply Contract and for a period of 12 years thereafter, the Seller shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Supply Contract, and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. Confidentiality

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Supply Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this



clause as though they were a party to the Supply Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 10 shall survive termination of the Supply Contract.

11. Cancellation and amendments

Without limiting its other rights or remedies, the Buyer may cancel or amend any Purchase Order placed under the Supply Contract in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Seller, whereupon the Seller shall discontinue all work under the Purchase Order concerned. The Buyer shall pay the Seller fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

12. Consequences of Termination

12.1 On completion or termination of the Supply Contract for any reason, the Seller shall immediately return all Buyer Materials (including any copies). If the Seller fails to do so, then the Buyer may enter the Seller's premises and take possession of them. Until they have been returned or delivered, the Seller shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Supply Contract, and the Buyer may withhold payment of such part of any payment due to the Seller at that time as may be required to replace the Buyer Materials concerned.

12.2 Termination of the Supply Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. This shall include, without limitation, any rebates payable to the Seller under the terms of the Supply Contract which shall be due and payable immediately notwithstanding termination.

12.3 Clauses which expressly or by implication survive termination of the Supply Contract shall continue in full force and effect.

13. Compliance with laws and policies

13.1 In performing its obligations under the Supply Contract, the Seller shall and shall ensure that each of its subcontractors shall comply with:

- (a) all applicable laws, statutes, regulations and codes from time to time in force, including the Modern Slavery Act 2015; and
- (b) the Buyer's mandatory policies (as amended from time to time) which are notified to the Seller by the Buyer.

14. General

14.1 Assignment and other dealings

- (a) The Buyer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Supply Contract.
- (b) The Seller may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Supply Contract without the prior written consent of the Buyer.

14.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Supply 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, or sent by pre-paid first class post or other next working day delivery service or commercial courier.

- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

- 14.3 **Severance.** If any provision of these Conditions or the Supply Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification to or deletion of a provision under this clause shall not affect the validity and enforceability of the rest of these Conditions or the Supply Contract.
- 14.4 **Waiver.** A waiver of any right or remedy under the Supply Contract or law 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 Supply Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 14.5 **No partnership or agency.** Nothing in the Supply Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 14.6 **Third parties.** A person who is not a party to the Supply Contract shall not have any rights to enforce its terms.
- 14.7 **Variation.** Except as set out in these Conditions, no variation of the Supply Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Buyer.
- 14.8 **Governing law.** These Conditions and the Supply 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 the law of England and Wales.
- 14.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Conditions or the Supply Contract or its subject matter or formation (including non-contractual disputes or claims).