



# Terms & Conditions

## CONDITIONS OF SALE

The following Standard Conditions of Sale shall govern all transactions except as otherwise specifically agreed in writing by the Buyer and the Seller (My History Ltd, t/a Donside Pockets).

### 1. Quotations

All quotations and tenders are given by the Seller on condition that the Seller shall not be bound until it has communicated its written acceptance of the Buyer's order. Any quotation given by the Seller is based on the instructions and information provided by the Buyer and the Seller reserves the right to amend the quotation to cover any increase in cost which may arise as a result of additional or incomplete instructions or information. Quotations given in a currency other than sterling are based on the rate of exchange at the time of quoting and, unless otherwise agreed in writing between the parties, the price may be subject to revision only if any different rate of exchange is ruling at the date of invoice. In the event of any inconsistency between the terms of the Buyer's order and these conditions, these conditions shall prevail unless the contrary has been agreed in writing by the Seller. No terms or conditions endorsed upon, delivered with or referred to in any purchase order or other similar document delivered or sent by the Buyer to the Seller will form part of the contract. Each purchase order for Goods issued by the Buyer will be deemed to be an offer by the Buyer to purchase Goods subject to these Conditions.

### 2. Cost variation

Except where a price is stated to be 'fixed' by the Seller on its written acceptance of the Buyer's order, any price quoted by the Seller or comprised in the order or contract is provisional only and the actual price to be paid by the Buyer shall be the Seller's price ruling at the date of despatch.

### 3. Payment

- a. **Our payment terms are strictly 30 days from date of invoice.** The Seller may invoice the Buyer for the Goods at any time after acceptance by the Seller of the relevant order submitted by the Buyer.
- b. No payment will be deemed to have been received until the Seller has received cleared funds. If terms of payment are not complied with by the Buyer, the Seller shall have the right to charge interest either at the rate of 1.5% per month or at the rate specified by the Late Payment of Commercial Debts Regulations 2002 (whichever is the greater) in the period between the due date of payment and final settlement.
- c. If the Buyer shall fail to pay any amount when it is due under this or any other contract with the Seller, then the Seller shall have the right (without prejudice to any of its other rights against the Buyer) on notice in writing being given to the Buyer, to treat the purchase price that is unpaid on all Goods invoiced or despatched by the Seller as having become due immediately and payable by the Buyer and in substitution for the provision contained in sub clause (a) of this Condition.
- d. Time for payment will be of the essence of the contract.
- e. The Buyer will make all payments due under the contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

### 4. Value Added Tax

All prices quoted or accepted are exclusive of Value Added Tax which shall be payable by the Buyer in addition to the relevant price.

### 5. Goods of the Contract

Except to the extent prevented by law, the Seller shall not be bound by any oral condition, warranty or representation given or made on its behalf unless confirmed in writing, nor by any express or implied term, condition or warranty, whether arising by statute, common law or otherwise.

### 6. Contract

The Seller shall have the option (without prejudice to any of its other rights against the Buyer) by notice in writing to the Buyer to terminate any contract between the Seller and the Buyer, or to suspend delivery in the following events:

- i) should any sum owing by the Buyer to the Seller be overdue, whether under the same or any other contract;
- ii) should a Buyer be in breach of any term of the same or any other contract with the Seller;
- iii) should a Buyer enter into any composition or agreement with or for the benefit of its creditors, or having received an order in bankruptcy made against it or (if a corporate body) should it have a resolution passed or petition presented to wind up its business (other than for the purpose of amalgamation or reconstruction) or if a Receiver be appointed of its undertaking, property or assets or any part thereof.

## **7. Delivery**

- a. If no time for delivery is specified in the contract, the Buyer shall be bound to accept the Goods when they are ready for delivery by the Seller.
- b. The risk in Goods contracted to be sold by the Seller shall pass to the Buyer when the Goods or any part thereof are delivered to the Buyer. Any complaint of short delivery or of damaged Goods in transit must be notified to the Seller within 24 hours of receipt of Goods and confirmed in writing at the time by the Buyer and any complaint of failure to deliver Goods invoiced must be so notified within 10 days of the date of the invoice.
- c. Where contract involves more than one delivery, if default is made in payment on the due date in respect of any one delivery, the Seller shall, at its option and without prejudice to any rights the Seller may have, be entitled to treat the contract as repudiated and to claim damages from the Buyer accordingly. Each delivery will constitute a separate contract and any failure or defect in any one delivery will not vitiate the contract as to the remaining deliveries.
- d. Any time or date for delivery named by the Seller is an estimate only and the Seller shall not accept liability for any loss or damage or any consequential loss arising either directly or indirectly from delay in delivery howsoever caused.
- e. The Seller shall be deemed to have fulfilled its contractual obligations in respect of any delivery even though the quantity may be up to 10% more or less than the quantity specified in the contract and in such event the Buyer shall pay for the actual quantity delivered.
- f. If the Buyer fails or refuses to accept the delivery of any Goods when they are ready for delivery in accordance with the provisions of this clause 8, then delivery of the Goods will be deemed to have taken place and the Seller may store or arrange for storage of such Goods and to charge the Buyer for all related costs and expenses (including but not limited to storage and insurance) and the Seller may sell such Goods 30 days after such refusal, postponement or failure and deduct any monies payable to the Seller by the Buyer from the sale proceeds and account to the Buyer for any excess or charge the Buyer for any shortfall below the relevant contract price. The provisions of this clause 8 (f) are without prejudice to any other right or remedy which the Seller may have.
- g. The Buyer shall provide (at its expense) at the place where delivery of the Goods is to take place adequate and appropriate equipment and manual labour for loading or off-loading (as appropriate) the Goods.

## **8. Ownership**

- a. The Seller and the Buyer expressly agree that ownership of the Goods shall only pass to the Buyer when the Seller has received in full (in cash or cleared funds) all sums due to it from the Buyer whether in respect of the Goods or otherwise.
- b. The Seller may recover Goods supplied by it to the Buyer at any time if the amounts outstanding from the Buyer to the Seller have not been paid in full by their relevant due date and for that purpose the Seller, its servants and agents may enter upon any land or buildings upon which the Goods are situated; provided that if the Seller shall resell the Goods so recovered, or any part thereof, the Seller shall give the Buyer credit for any sum received by the Seller in excess of the unpaid sums owing to the Seller.
- c. The buyer may dispose of the Goods in the ordinary course of its business as principal (but any warranties, conditions, or representations given or made by the Buyer to any third party shall not be binding on the Seller who shall be indemnified by the Buyer with respect thereto) and may pass good title in the Goods to a third party being a bona fide purchaser for value without notice of the Seller's rights.
- d. If the Buyer incorporates the Goods into other products (with the addition of its goods or those of others) or uses such Goods as material for other products (with or without such addition) the property in those other products is upon such incorporation or use and by that event transferred to the Seller and the Buyer will store the same for the Seller in a proper manner without charge to the Seller; in the event of such incorporation or use as is envisaged by this sub-clause the provisions of sub-clauses (b) and (c), shall apply mutatis mutandis to those other products in place of the Goods; provided that if the Seller shall sell such other products or any part thereof (without being under any duty to obtain the best price therefore) the Seller shall give the Buyer credit or any sum received by the Seller in excess of the unpaid price (including any interest charged hereunder) of such Goods.
- e. From the time of delivery until title in the Goods passes to the Buyer in accordance with this condition 9, the Buyer shall insure the Goods for their full value with a reputable insurance office. Upon request the Buyer shall use reasonable endeavours to have the Seller's interest in the Goods noted on the insurance policy. Until title passes to the Buyer, the Buyer shall hold the proceeds of any claim on any insurance policy on trust for the Seller and shall forthwith account to the Seller with such proceeds.

## **9. Disposal before payment**

If the Goods or any part thereof, whether or not incorporated into other products or used as material for other products, are resold by the Buyer before it has made full payment to the Seller as aforesaid, the Buyer shall hold upon trust for the Seller from the proceeds of such resale such sum as shall be equal to the amount then owing to the Seller in respect of the Goods provided that if the Buyer has not received the proceeds of such resale in full the Seller shall be subrogated (without the need for further documentation) to the Buyer's rights against its customer to the extent of any balance still remaining due to the Seller in respect of the Goods. Nothing contained herein shall affect any other rights the Seller may have against the Buyer's customer.

## **10. Claims**

- a. Unless expressly agreed in writing, the Seller gives no warranty that the Goods are suitable for any particular purpose or for use under specific conditions, notwithstanding that such purpose or conditions may be known to the Seller.
- b. Claims in respect of any alleged defect in the Goods delivered where the defects would have been revealed by reasonable examination of the Goods on arrival, must be made in writing within 14 days after delivery, or if related to the transport of Goods, within such time as will enable the Seller to comply with the time limit and procedure laid down by the carrier by whom the Goods were transported. If the Buyer shall make any complaint within the time stipulated, the Seller shall, after it has had a reasonable time to investigate the same and examine the Goods in dispute be entitled as its option: i) to replace the Goods (if defective), or ii) to accept the return of the Goods (if defective) and credit the Buyer with the price thereof, or iii) to make to the

Buyer (if the Goods are defective) an allowance representing the difference between the value of the Goods at the time of the complaint by the Buyer and the value they would have had if they had been in accordance with the contract providing the Buyer pays the balance not in dispute according to normal terms, in which case the Seller shall have no further liability to the Buyer for such defective Goods.

c. The return of Goods shall not be made without prior agreement between the Buyer and the Seller. No claim may be made by the Buyer in respect of alleged defective Goods after those Goods or any part of them have been processed in any way.

#### **11. Statutory requirements and infringement of patents**

a. Every effort is made that the Goods meet known statutory requirements and they do not infringe any intellectual property rights belonging to third parties, but no warranty is given that the design construction and / or quality of the Goods comply with relevant requirements of any Statute, statutory rule, or order or other instrument having the force of law which may be in force at the time of supply.

b. The Buyer shall indemnify the Seller against all damages, penalties, costs and expenses to which the Seller may become liable as a result of work done in accordance with the Buyer's specification which involves the infringement of any intellectual property rights.

#### **12. Limitation of the Seller's liability**

a. All warranties, conditions and other terms implied by statute or common law (except for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the contract.

b. Nothing in these Conditions excludes or limits the liability of the Seller for fraudulent misrepresentation or for any death or personal injury caused by the Seller's negligence. THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITIONS 13 (c) AND 13 (d):

c. The Seller will not be liable to the Buyer in contract, tort (including, but not limited to negligence), misrepresentation or otherwise for any economic loss of any kind (including, but not limited to loss of profit, business, contracts, revenue or anticipated savings), any damage to the Buyer's reputation or goodwill, any product recall costs or any other special, indirect or consequential loss (whatsoever and howsoever caused) which arise out of or in connection with the contract.

d. Subject to the provisions of this clause 13, the Seller's total liability in contract, tort (including, but not limited to negligence), misrepresentation or otherwise arising in connection with the performance or contemplated performance of this contract will be limited to an amount equal to the price paid by the Buyer for the Goods in the year in which the relevant cause of action arose.

#### **13. Force majeure, etc**

The performance of all contracts is subject to variation or cancellation by the Seller owing to any act of God, war, strikes, Governmental regulations or orders, national emergencies, lockouts, fire, flood, drought, tempest or any other cause (whether or not of a nature) beyond the control of the Seller or owing to any inability by the Seller to procure materials or articles required for the performance of the contract and the Seller shall not be held responsible for any inability to deliver caused by any such contingency.

#### **14. Application of these conditions**

By ordering any Goods from the Seller, the Buyer will be deemed to accept that these Conditions take precedence over any other conditions contained on or in any letter, order form, acceptance form, receipt or the like received by the Seller in connection with the Goods so ordered and that any such other conditions will not form part of the contract between the Seller and the Buyer unless specifically agreed in writing.

#### **15. Governing Law**

The Law of England shall govern the validity, construction and performances of any contract to which these Conditions apply, and the English courts shall have the exclusive jurisdiction to decide any dispute arising out of or in connection with any such contract.

#### **16. Return of stock items**

The Seller may, in its absolute discretion, accept the return of Goods in their original condition, subject to a charge of 10% of value for such Goods up to a value of £2,500, and 5% of value for such Goods above £2,500 together with such other charges as the Seller may reasonably require including, without limitation, third party handling charges.

#### **17. Data Protection**

##### Definitions

Data: Personal data of the Data Subject which is recorded or processed by means of equipment operating automatically and controlled by the Data Controller and stored in a Relevant Filing System. This is Data relating to any living individual who can be identified from such information. This can be information such as names and addresses of employees, directors, shareholders, individual clients, customers, suppliers or other business associates from which such individuals can be identified or from any other information which is in the possession of the data controller.

**Data Controller:** A person or organisation which (either alone or jointly in common with other persons) determines the purposes for which and the manner in which any Personal Data of the Data Subjects are processed. The Data Controller may pass the Data to carefully selected third parties which can include insurers credit insurers, credit reference agencies who may also process the Data in which instance the third party is also a Data Controller.

**Data Subject:** Individuals (who may be associates, business contacts or parties to a contract with the Data Controller) who are the subjects of Personal Data and whose Data is processed by the Data Controller.

**European Economic Area:** Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg,

Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom, Iceland\*, Liechtenstein\* and Norway\*.

\*These countries are in the EEA, but are not members of the European Union.

**Processing/Processed:** Obtaining, recording, holding the data or carrying out any operation on the Data.

**Relevant Filing System:** Readily accessible set of information relating to individuals that are structured either by reference to individuals to by reference by criteria relating to individuals and includes both electronic and manual filing systems.

### **DATA PROTECTION NOTICE**

Data relating to the Data Subject will be processed by the Data Controllers and will be held securely in confidence and processed for the purpose of carrying out the business of the Data Controllers and associated activities such as insurance, risk assessment and other related activities (“Activities”). The Data Controller may consult with and disclose the Data Subject’s Data to third parties such as insurers, credit insurers, credit reference agencies and other carefully selected parties (“Third Parties”) who may process the Data also as Data Controllers for the purpose of carrying out the Activities for any business applications made directly or indirectly to the Data Controllers by the Data Subject now or in the future. The Data Controllers may also receive Data on the Data Subject from the Third Parties. The Data will be processed both within and outside the European Economic Area.

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