

Johnson & Starley Limited Conditions of Sale

1. General

- 1.1 These conditions apply to all contracts for the sale of goods and services (“goods”) by Johnson & Starley Limited (“The Company”) and supersede any previous conditions of sale and these conditions shall apply to the exclusion of any other terms that the buyer may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.2 All brochures, catalogues and other advertising or descriptive material supplied by the Company are intended only to give a general impression of the goods and unless expressly incorporated shall not form part of the contract.
- 1.3 The Company reserves the right to make minor alterations to the design, specification or construction of the goods without prior notification.
- 1.4 The buyer is responsible for ensuring compliance with any legislation or regulations of the United Kingdom or any other country governing the export and import of goods and any duties payable thereon.

2. Orders

- 2.1 The buyers order for the goods constitutes an offer by the buyer to purchase the goods in accordance with these conditions. They buyer is responsible for ensuring that the terms of any order are complete and accurate.
- 2.2 Without prejudice to clause 2.3 or 3.1, any order placed in accordance with clause 2.1 shall be deemed to be accepted when the Company issues a written acceptance of such order or commences work on the order.
- 2.3 The company reserves the right to accept telephone orders provided such orders are confirmed in writing the same day by the buyer marked “confirmation”, any orders so accepted shall be upon these conditions. Orders not marked “confirmation” will be treated as fresh orders and the buyer shall be responsible for the consequences of any duplication.
- 2.4 The Company reserves the right to refuse any order given to any representative of the Company and the buyer acknowledges that it does not rely on any representations warranties or undertakings made by such representative which are not confirmed by a director of the Company in writing.
- 2.5 No conditions or stipulations in or attached to the buyer’s form of order which are inconsistent with these conditions or which purport to add to or modify these conditions in any way shall have any effect unless expressly accepted in writing by a director of the Company. In the absence of such acceptance by a director of the Company the buyer shall be deemed to have withdrawn or waived his said conditions or stipulations and to contract solely on the basis of the Company’s conditions.

3. Quotations

- 3.1 All quotations are subject to written confirmation by the Company on receipt of the buyer's official order and not contract shall be created until such confirmation has been despatched by the Company or until the Company commences work on the order.
- 3.2 The Company reserves the right to refuse to accept any order based upon a quotation unless the quotation is stated to be open for a defined period and the quotation has not been withdrawn in that period.

4. Prices

- 4.1 All goods quoted "ex stock" are subject to availability.
- 4.2 The Company reserves the right to review or withdraw any quotations supplied prior to acceptance by the buyer.
- 4.3 All prices are quoted "ex works" unless otherwise agreed in writing and packing may be charged for at the option of the Company but all cases and crates so charged and returned to the Company carriage paid and in good condition within 60 days of the despatch thereof by the Company will be credited in full.
- 4.4 The Company 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 Company which is due to any factor beyond its control (such as, without limitation, significant increases in labour costs, costs of materials or other costs of manufacture), any change in delivery dates, quantities or specifications requested by the buyer or any delay caused as a result of the failure of the buyer to give adequate information or instructions.

5. Settlement Terms

- 5.1 All invoices are NET and no settlement discount is allowed.
- 5.2 The price of the goods is exclusive of amounts in respect of value added tax ("VAT"). The buyer shall pay to the Company such amounts in respect of VAT as are chargeable on the supply of the goods.
- 5.3 Unless otherwise stated any additional items not provided for on the original quotation shall be added to the price.
- 5.4 The Company may invoice the buyer for the goods on or at any time after the completion of delivery or at the time delivery should have occurred if the goods were ready for delivery at that time.
- 5.5 Payment in full shall be due and payable in Pounds Sterling by the 20th day of the month following the date of invoice unless otherwise stated by the Company.
- 5.6 No special terms of payment will be operative unless confirmed in writing by the Company.

- 5.7 The Company reserves the right to charge interest at 4% per annum above Barclays Bank plc base lending rate for the time being on any overdue payments until repaid in full. 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 judgement. The buyer shall pay the interest together with the overdue amount.
- 5.8 The Company reserves the right to recover from the buyer all direct expenses reasonably incurred by the Company in the collection of any overdue sums.
- 5.9 Without prejudice to any other rights of the Company, if there is reason to doubt that the amounts due from the buyer will be paid in full according to the contract then the Company reserves the right to require payment in full before delivering or performing any other work or services whatsoever for the buyer.

6. Non-Delivery and Damage on Delivery

- 6.1 If there is a shortage of or damage to the goods on delivery the buyer must notify the Company by noon of the next working day following delivery.
- 6.3 In the event of complete non-delivery of a consignment the buyer must notify the Company in writing within ten days of the date of the Company's invoice.
- 6.3 In the event notification is not received by the Company pursuant to clauses 6.1 or 6.2, delivery of the goods shall be deemed to be completed.

7. Delivery

- 7.1 Any dates quoted for delivery of the goods are approximate only and the Company shall not be liable for any delay in delivery nor shall the buyer be entitled to rescind for delay. Time for delivery shall not be of the essence unless previously agreed by a director of the Company in writing.
- 7.2 The Company shall deliver the goods to the locations set out in the order or such other locations as the parties may agree. ("Delivery Location") at any time after the Company notifies the buyer that the goods are ready.
- 7.3 Delivery of the goods shall be completed on the goods' arrival at the Delivery Location.
- 7.4 Subject to clause 7.5, if the Company fails to deliver the goods, its liability shall be limited to the costs and expenses incurred by the buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the goods.
- 7.5 Without prejudice to the above, the Company shall not be liable to the buyer or be deemed in breach of the contract by reason of any failure or delay arising from any of the following:
- 7.5.1 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 7.5.2 power failure or breakdown in machinery;
 - 7.5.3 strikes, lock-outs or other industrial actions or trade disputes;
 - 7.5.4 act of God, explosion, flood, tempest, fire or accident;
 - 7.5.5 war, threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 7.5.6 Government controls; and measures of any kind affecting economic or trade conditions or practises;
 - 7.5.7 any other cause unavoidable or beyond the Company's control; or

7.5.8 the buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the goods.

7.6 In the event of delay or failure from any of the above clauses, the delivery date set out in the contract shall be postponed for a reasonable period.

7.7 Where goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these conditions or any claim by the buyer in respect of one or more instalments shall not entitle the buyer to treat the contract as a whole as repudiated.

8. Delay in Taking Delivery

8.1 If the buyer fails to take delivery of the goods or fails to give the Company adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Company:

8.1.1 delivery of the goods shall be deemed to have been completed at 9.00 am on the third business day after the day on which the Company notified the buyer that the goods were ready;

8.1.2 the Company shall store the goods until actual delivery and charge the buyer for the reasonable costs (including insurance) of storage; and

8.1.3 the Company may resell or otherwise dispose of part or all the goods and (after deducting all reasonable storage and selling expenses) account to the buyer for the excess over the price under the contract or charge the buyer for any shortfall below the price under the contract.

9. Warranties and Exclusion of Liability

9.1 The Company agrees to repair or (at its discretion) replace free of charge any goods manufactured by the Company which are shown to the Company's satisfaction to be defective due to faulty material or workmanship and which are returned to the Company carriage paid by the buyer within twelve months of the date of purchase provided that the following are satisfied:

9.1.1 notification of any defect is given to the Company immediately upon it becoming apparent to the buyer;

9.1.2 the goods have only been operated under normal operating conditions and have only been subject to normal use and fair wear and tear;

9.1.3 no work whatsoever (other than normal and proper maintenance) has been carried out to the goods or any part of the goods without the Company's prior written consent; and

9.1.4 the goods have been assembled or incorporated into other goods only in accordance with any instructions issued by the Company.

9.2 In respect of any item manufactured by a person other than the Company the buyer shall only be entitled to the benefit of any warranty or guarantee provided by such manufacturer to the Company.

9.3 No condition, warranty or other term, express or implied (by statute or otherwise) is given by the Company that the goods are of any particular quality or will enable the buyer to attain any particular performance or result, or will be suitable for any particular purposes, notwithstanding that the requirement for such performance, result or particular purpose may have been known (or ought to have been known) to the Company, its employees or agents.

- 9.4 Where the goods are sold under a consumer transaction (as defined by the Sale of Goods Act 1979) the statutory rights of the buyer are not affected by conditions 9.2, 9.3 and 9.6.
- 9.5 The Company accepts liability:
- 9.5.1 for death or personal injury to the extent that it results from the negligence of the Company, its employees (whilst in the course of their employment) or its agents (in the course of the agency);
 - 9.5.2 for any breach by the Company of any statutory undertaking as to title, quiet possession and freedom from encumbrance.
- 9.6 Subject to condition 9.1 and 9.5 the Company shall not be liable to the buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any damages, loss of profits, loss of goodwill, loss of business, or any indirect or consequential loss whatsoever arising out of or in connection with the goods.
- 9.6.1 To the extent that the Company is held legally liable to the buyer for any single breach of contract or tort or other act, default, omission or statement of the Company, its employees, agents or sub-contractors in respect of which the Company is liable to the buyer any liability for the same shall not exceed the sum of One Million Pounds provided that a number of breaches, whether successive or concurrent, which together result in or contribute to substantially the same loss or damage shall be treated as a single breach.
 - 9.6.2 The restriction of liability in condition 9.6.1 shall not apply to any liability accepted by the company in condition 9.5.

10. Return of Goods

- 10.1 No return of goods will operate to affect the liability of the buyer under the contract unless such return is accepted by the Company in writing and no such acceptance will be given unless previous notice of intention to return with the reason thereof and quoting the reference number of the invoice or contents note is given to the Company and after acceptance by the Company of such notice the goods are returned to the Company carriage paid and in good condition.

11. Retention of Title

- 11.1 Risk in the goods shall pass to the buyer on completion of delivery.
- 11.2 Legal ownership of the goods is to remain vested in the Company until the goods have been paid for in full, and until full payment has been received by the Company under any other contract with the buyer for which payment is outstanding.
- 11.3 The buyer shall until payment is made in full:
- 11.3.1 hold the goods in a separate and identifiable form as bailee and fiduciary agent for the Company; and
 - 11.3.2 maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.

- 11.4 Where the goods are attached to either buildings or plant or machinery of the buyer, the buyer agrees that it is not its intention that the goods thereby become fixtures and fittings or part of the plant or machinery, but the goods shall remain as chattels and be severable from the buildings or plant or machinery.
- 11.5 Failure to pay the full amount when due shall give the Company, or its employees or agents, the right to repossess the goods (and enter the buyer's premises for that purpose if necessary) with or without notice and without liability and, at its option, to avail itself of any other legal remedy. The Company shall have the right to sell the goods once they have been repossessed.
- 11.6 If before title to the goods passes to the buyer the buyer becomes subject to any of the events listed in clause 12.1.1 or the Company reasonably believes that any such event is about to happen and notifies the buyer accordingly, then, provided that the goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Company may have, the Company may at any time require the buyer to deliver up the goods and, if the buyer fails to do so promptly, enter any premises of the buyer or of any third party where the goods are stored in order to recover them.
- 1.2 Notwithstanding any of the above the Company shall be entitled to maintain an action for the price of the goods at any time after the date when payment is due.

12. Termination

- 12.1 The Company shall, at its option, be entitled by notice to terminate all or any of its contracts with the buyer forthwith and recover all expenses, losses and damage resulting to the Company if:
- 12.1.1
- a) the buyer has a bankruptcy petition presented against him or a bankruptcy order is made;
 - b) the buyer makes or seeks to make any composition or arrangement with creditors;
 - c) the buyer makes a proposal to his creditors for a voluntary arrangement or applies for an interim order (within the meaning of section 286 Insolvency Act 1986);
 - d) an encumbrance takes possession of any of the buyer's assets, or any of the buyer's property is taken in execution or process of law;
 - e) a petition is presented or an order is made or a resolution is passed for the winding-up of the buyer;
 - f) a petition is presented or an order is made for an administration order to be made in relation to the buyer;
 - g) the buyer's directors make a proposal for a voluntary arrangement with the buyer's creditors;
 - h) the buyer suspends or threatens to suspend payment of its debts (within the meaning of section 123 Insolvency Act 1986);
 - i) a receiver or administrative receiver is appointed over any of the buyer's assets; or
- 12.1.2 the buyer fails to make any payment owed to the Company on the due date under condition 5.3; or
- 12.1.3 the buyer fails to make payment in advance when requested in accordance with condition 5.9 within 7 days of being requested to do so; or

- 12.1.4 the buyer is in breach of the terms and conditions of any contract with the Company (including breach of these conditions) and shall fail to remedy the same within 21 days of receiving notice specifying the breach and requiring remedy (if the breach shall be remediable).

13. Anti-Bribery

- 13.1 The buyer shall:
 - 13.1.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption, including the Bribery Act 2010;
 - 13.1.2 not engage in any activity , practice or conduct that would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and
 - 13.1.3 promptly report to the Company an request or demand for any undue financial or other advantage of any kind received by the buyer in connection with these conditions.

14. Jurisdiction

- 14.1 The contract shall be governed in all respects by English Law and be subject to the sole jurisdiction of the English Courts.

NOTE: A charge for P.O.D's will be made where it is proved that the delivery was successfully completed prior to the enquiry.