

Conditions of Trading

1. DEFINITIONS

In these Conditions:

The Company means Peri Limited

The Customer means the company, firm or person who agrees to buy and/or hire the Goods from the Company.

The Goods means an individual component part which the Company is to supply in accordance with these Conditions. Any reference to the Goods shall, where appropriate, include a reference to part of them.

The Price shall mean the purchase price in cases of Goods for purchase and the applicable rate of hire in the case of Goods for hire as stated in the Company's quotation.

2. FORMATION OF THE CONTRACT

2.1 These Conditions form the whole agreement between the Company and the Customer and no other express terms, written or oral, shall be incorporated into the contract.

2.2 These conditions of trading (Conditions) override any other terms which the Customer may subsequently seek to impose.

2.3 The Company's employees or representatives (other than directors) are not authorised to do any of the following things on behalf of the Company:-

- (a) vary any of these terms or introduce any other terms, written or oral, into the contract; or
- (b) give any advice, make any representation, agree any condition precedent or enter into any collateral contract.

2.4 The Customer's order constitutes an offer by the Customer to purchase/hire the Goods from the Company on these Conditions and the contract between the Company and Customer is made by the Company's acceptance of the Customer's offer.

3. PRICES

3.1 Any quotation given by the Company is valid for 30 days only.

3.2 Unless otherwise stated in writing by the Company, prices are quoted and are payable on a component basis.

3.3 The Price excludes delivery and/or collection for return and the delivery/collection charges will be quoted separately.

3.4 The Price and delivery/collection charges are exclusive of VAT which shall be paid in addition at the rate prevailing at the tax point.

3.5 Where at any time before delivery of the Goods;

- (a) there is an increase in the cost of raw materials, components or labour; or
- (b) there are any currency fluctuations increasing the cost of raw materials or components;

the Company may adjust the Price accordingly.

3.6 All orders are accepted by the Company subject to raw materials and components being available to the Company and by accepting an order the Company does not give a warranty as to availability.

3.7 In the case of hire, the Goods must be hired for a minimum period of four weeks.

3.8 In the case of purchase, orders are accepted by the Company subject to a minimum order value of £250 (exclusive of delivery and VAT).

4. PAYMENT

4.1 In the case of Customers without a pre-agreed credit facility:-

- (a) Goods for purchase will be invoiced and shall be payable prior to or upon delivery. Payment may be made by the following methods:
 - i) credit card;
 - ii) debit card; or
 - iii) cheque. (Allow 5 days for cheque clearance)
- (b) Goods for hire will be invoiced every four weeks, in arrears, from the date of hire. The first invoice shall be payable immediately and thereafter invoices are payable 30 days from date of invoice.

4.2 In the case of Customers with a pre-agreed credit facility:-

- (a) in the case of Goods for purchase, the Company may invoice the Customer for the Price of the Goods at or any time after date of delivery;
- (b) in the case of Goods for hire, the Company will invoice every four weeks, in arrears; and
- (c) invoices are payable 30 days from date of invoice.

4.3 In the event of an agreed conversion of the supply of Goods from hire to purchase an administration and finance charge will be payable.

4.4 The Company may at any time withdraw, with immediate effect, a Customer's credit facility.

4.5 The time for payment is of the essence of the contract.

4.6 In the event of a breach by the Customer of any of these Conditions, the Company may require immediate payment of any invoice rendered to the Customer.

4.7 If the Customer fails to pay the invoice by the due date the Company may:-

- (a) charge interest on overdue invoices at the rate of 5% above Lloyds Bank base lending rate from the due date until payment;
- (b) withhold supply of any Goods due to the Customer; or

- (c) appropriate any payment made by the Customer to such of the Goods (including Goods supplied under any other contract with the Customer) as the Company may in its sole discretion think fit.

4.8 The Customer may not withhold payment of any invoice or other amount due to the Company by reason of any right of set off or counterclaim for any reason whatever.

5. DELIVERY

5.1 Delivery shall be deemed to take place at the moment of loading onto the delivery vehicle of the Customer or independent carrier for onward transportation to the Customer.

5.2 In the case of Goods for hire, return shall be deemed to have taken place when unloaded at one of the Company's distribution depots by prior arrangement.

5.3 The Company may deliver by separate instalments, each of which may at the Company's option be invoiced separately.

5.4 The Customer is responsible for the unloading of the Goods upon delivery to the Customer and the loading of hired Goods for return.

5.5 The Company may refuse to accept the return of hired Goods when Goods have been loaded onto the transportation vehicle unsafely, in which case the hire period will continue until the Goods have been returned in a safe condition.

5.6 If the Customer fails to accept the Goods or fails to give the Company adequate delivery instructions, then the Company may:-

- (a) store the Goods until actual delivery to the Customer or until the Goods are disposed of under clause 5.6.(b). The Customer shall be liable for the costs of storage and insurance of the Goods under this clause.
- (b) in the case of Goods for purchase, sell the Goods at the best price readily obtainable. The Customer shall be liable to pay the costs of the sale. Further, if the Goods are sold for less than the Price payable by the Customer, the Customer shall be liable to pay to the Company the difference in price; or
- (c) in the case of hire Goods, the Company may invoice for the minimum hire period plus any transportation costs incurred by the Company. This does not affect any other right or remedy the Company may have.

5.7 Any delivery dates stated are approximate only and the Company is not liable for any delay in delivery of the Goods, however caused. Time of delivery is not of the essence of the contract.

5.8 In the case of hire Goods, the Customer must keep the Goods at the site for which the Goods are supplied at the time of quotation. In the event of breach, the Customer shall be liable to purchase the Goods at their value at the commencement of the hire contract.

6. TITLE AND RISK

6.1 Title to Goods for hire remains with the Company at all times and will not pass to the Customer.

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

- (a) the Goods; and
- (b) any other Goods that the Company has supplied to the Customer (whether hired or sold) in respect of which payment has become due.

6.3 Until title to the Goods for purchase has passed to the Customer, the Customer shall:

- (a) hold the Goods on a fiduciary basis as the Company's bailee;
- (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (d) maintain the Goods in satisfactory condition;
- (e) not annex or attach the Goods to the Customer's premises without the consent of the Company;
- (f) notify the Company immediately if it becomes subject to any of the events listed in clause 11; and
- (g) give the Company such information relating to the Goods as the Company may require from time to time;

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

6.4 If before title to the Goods for purchase passes to the Customer the Customer becomes subject to any of the events listed in clause 11, or the Company reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided 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 Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Company or of any third party where the Goods are stored in order to recover them.

6.5 Risk in the Goods passes to the Customer when the Company delivers the goods to a carrier in accordance with clause 5.1.

6.6 The Customer must insure the Goods against all insurable risks for the Company's list price for the Goods from the time of delivery.

- 6.7 If the Goods are destroyed by an insured risk before the Customer has paid for them, the Customer shall hold the insurance proceeds as the Company's trustee.
- 6.8 Notification of loss, shortage or damage shall be notified to the company in writing within seven days of delivery.
- 7. WARRANTIES and CONDITIONS**
- 7.1 In addition or subject to any other warranty or condition previously agreed in writing, the Company warrants that the Goods are of satisfactory quality and correspond, within reasonable tolerance levels, to the quantity ordered and any published specification for the Goods and to all statutory requirements applicable to the Goods.
- 7.2 Except as provided in clause 8.1 all terms, conditions, warranties or descriptions implied by law or expressed orally by the Company's employees or agents or otherwise, as to the quantity, quality or fitness for the purpose of the Goods or any of the Goods or their conformity to any samples or description provided by or on behalf of the Company are expressly excluded.
- 8. CLAIMS**
- 8.1 In case of any claim arising out of breach of warranty or condition (including any statutory warranty or condition which is not excluded by these Conditions), the Company will (subject to clause 8.2) at its own expense make good any shortfall and repair the Goods or (if the Company shall in its absolute discretion so decide) remove them to allow replacement and replace them free of charge with replacement goods which conform to the contract.
- 8.2 The liability under clause 8.1 does not extend to meeting any cost incurred by the Customer in removing and/or replacing the Goods or by others (unless the Company shall have previously otherwise agreed in writing) and in any case is conditional upon:-
- there having been no unauthorised alteration or addition to the Goods
 - notice of the complaint having been given in writing to the Company immediately it became apparent and in any case within thirty days of delivery; and
 - the Company being allowed all reasonable facilities to investigate the complaint and comply with clause 8.1.
- 8.3 The Customer shall have no right of rejection of the Goods and the Company shall have no liability for breach of warranty or condition except as provided in clause 8.1.
- 9. OTHER COMPANY LIABILITY**
- Subject and without prejudice to the provisions of clauses 7 and 8:-
- 9.1 The Company shall have no liability for ascertaining whether the Goods are suitable or reasonably fit for the purpose for which they were ordered or for any advice it may give whether by itself, its employees or agents as to the application or suitability of Goods for any purpose whatsoever.
- 9.2 The Company shall not be liable for breach of contract attributable directly or indirectly to circumstances beyond the Company's reasonable control.
- 9.3 Incidental to the supply of the Goods, the Company may agree to provide a design service in respect of the use of the Goods, in which case all plans, calculations, designs, method statements and design advice produced by the Company before or after delivery of the Goods are intended to be only a general guide and provided without acceptance of liability. It is the Customer's sole responsibility to check the adequacy, accuracy, suitability and completeness of the design advice and the Customer confirms that no reliance is or will be placed upon the design advice.
- 9.4 The Company 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.
- 9.5 The Company'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 Price or the limit of the Company's insurance cover in the event that the risk is insurable and the Company's insurer will pay out in respect of such liability.
- 9.6 Nothing in these Conditions including, for the avoidance of doubt, clauses 7, 8 and 9, shall limit or exclude the Company's liability for:
- death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - fraud or fraudulent misrepresentation;
 - breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - defective products under the Consumer Protection Act 1987; or
 - any other matter in respect of which it would be unlawful for the Company to exclude or restrict liability.
- 10. TERMS OF HIRE**
- In the case of hire Goods:-
- 10.1 The Customer is responsible for the proper handling, dismantling, storage, maintenance and cleaning of the Goods.
- 10.2 Loss or damage howsoever caused (excluding fair wear and tear) to the hired Goods will, without prejudice to any other remedies the Company may have, render the Customer liable to a charge, details of which are available upon request. Damage shall include wear and tear going beyond normal proper use such as breakages, cuts or drillings.
- 10.3 The Goods must be delivered to the Company bundled, palletted and cleaned. Failure to do so shall render the Customer liable to a charge.
- 10.4 If the Customer mixes the hired Goods with the Customer's own equipment, the Company's decision as to subsequent separation and identification of the Goods shall be final.
- 10.5 The Customer shall not part with possession or otherwise charge, pledge or assign the Goods to any third party. Breach of this term shall render the Customer liable to a charge equivalent to the list price.
- 10.6 The hire period will commence in the case of:-
- non pre-assembled Goods on the day of delivery or, if earlier, the day when the Goods are ready for delivery in accordance with the Customer's requested delivery date; or
 - pre-assembled Goods on the day of commencement of assembly by the Company.
- 10.7 The hire period will terminate on the return of the Goods to the Company.
- 10.8 The Company may treat the hire contract as being at an end or suspend any further deliveries and require the return of the hired Goods at the Customer's expense if the Customer is in breach of any of these Conditions.
- 11. INSOLVENCY**
- If the Customer:-
- 11.1 Being a company,
- has a petition presented for its winding up; or
 - passes a resolution for voluntary winding-up (other than for the purpose of a bona fide amalgamation or reconstruction); or
 - enters into a voluntary arrangement with its creditors; or
 - becomes subject to an administration order; or
 - has a receiver appointed of all or any of its assets; or
- 11.2 Being an individual or firm,
- becomes bankrupt or insolvent; or
 - enters into a voluntary arrangement with creditors;
- then the Company shall be entitled to treat the contract as being at an end or suspend any further deliveries under the contract. If the Goods have been delivered but not paid for, the Price shall become due immediately regardless of any previous agreement to the contrary.
- 12. THIRD PARTIES**
- Nothing in the agreement between the Company and the Customer or their course of dealing shall confer or purport to confer on any third party any benefit or right to enforce any term of this agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 13. ASSIGNMENT AND SUBCONTRACTING**
- 13.1 The Company 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.
- 13.2 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 the Company.
- 14. SEVERANCE**
- 14.1 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.
- 14.2 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.
- 15. 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.
- 16. VARIATION**
- Except as set out in these Conditions, 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 Company.
- 17. 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 jurisdiction of the courts of England and Wales.