

## CONDITIONS OF SALE URTICA PLUS LIMITED

### 1. Interpretation

1.1 In these Conditions the following words shall have the following meanings:

- Buyer The person who accepts a quotation of the Seller for the sale or the Goods or whose order for the Goods is accepted by the Seller.
- Goods The goods (including any instalment of the goods) which the Seller is to supply in accordance with these conditions.
- Seller's Premises The seller works at 27c Turbine Way, Innovation Park, Swaffham, Norfolk PE37 7XD or such other premises as the Seller may from time to time specify as being the place where delivery of the Goods is to be affected.
- Conditions The standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and Seller.
- Contract The Contract for the purchase and sale of the Goods

1.2 The word "Writing" includes electronic mail, facsimile transmission and comparable means of communication.

1.3 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.4 The headings in these Conditions are (for convenience only) and shall not affect the construction or interpretation of this Agreement.

### 2. Basis of the sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any quotation of the Seller (whether oral or in writing) which is accepted by the Buyer, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract, the buyer acknowledges that it does not rely on, and waives any claim for breach of, and such representations which are not so confirmed.

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is

followed or acted upon entirely at the Buyer's own risk, and accordingly, the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of Offer, Invoice or Other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

### 3. Orders and specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until acceptance is given either orally or in writing by an authorised representative of the Seller.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

3.4 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements.

3.5 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss or profit), cost (including the cost of all labour and materials used), damages, charges, and expenses incurred by the Seller as a result of cancellation.

### 4. Price or the goods

4.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply. At prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's Premises, the Buyer shall be liable to pay the Seller's charges for arranging transport, packaging and insurance and the Goods will be at the Buyer's risk from the date the Goods leave the Seller's Premises.

- 4.3 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
- 4.4 The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.
- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's Premises at any time after the Seller has notified the Buyer that the Goods are ready (or collection or if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place).
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Times for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

## 5. Terms or payment

- 5.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 5.2 Subject only to any special terms agreed in writing between the Buyer and the Seller, the Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) within 28 days of the date of the Seller's invoice and notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer (unless such non-delivery and non-passing of the property is solely the fault of the Seller). The time of payment of the price shall be of the essence of the Contract. Receipts for payments will be issued only upon request.
- 5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 5.3.1 cancel the Contract or suspend any further deliveries to the Buyer including stopping any Goods in transit;
- 5.3.2 appropriate any payment made by the Buyer to such or the Goods (or any Goods supplied under any other Contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any actual purported appropriation by the Buyer); and
- 5.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3 per cent per annum above HSBC UK base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 6.3 Where delivery of the goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 5 per cent more or 5 per cent less than the quantity ordered and the quantity so delivered shall be deemed to be quantity ordered. The price for the quantity so delivered will be adjusted in proportion to the price of the quantity ordered.
- 6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as whole as repudiated.
- 6.5 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.6 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time slated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:
- 6.6.1 Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- 6.6.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for any excess over the price under the Contract will charge the Buyer for any shortfall below the price under the Contract.

## 6. Delivery

## 7. Risk and property

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer.

7.1.1 in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the goods are available for collection, or

7.1.2 in the case of the Goods to be delivered otherwise than at the Seller's premises at the time of delivery or commence in transit, whichever comes earlier. If the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered the delivery of the Goods.

7.2 Notwithstanding delivery and the passing of the risk in Goods, or any provision of these conditions, the property in the goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods separate from those of the Buyer and third parties and property stored, protected and insured and clearly identified as property of the Seller. Until that time the Buyer shall have a power to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including any insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and:

7.3.1 in the case of tangible proceeds, property stored, protected and insured;

7.3.2 in the case of intangible proceeds, clearly identified as being held for and on behalf of the Seller.

7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.5 All goods manufactured or supplied by the Seller and bearing the Seller's name or mark or contained in packaging bearing the Seller's name or mark which are in the Buyer's possession, custody or control at the time when the right of the Seller to repossession arises shall be deemed to be goods supplied by the Seller to the Buyer in which property has not passed to the Buyer unless the contrary is proved.

7.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the

Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

## 8. Warranties and liability

8.1 The Seller warrants that the Goods will correspond with their specification and be of satisfactory quality at the time of delivery.

8.2 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.3 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.

8.4 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

8.5 Where any claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or part in question) free of charge or, at the Seller's discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), the Seller shall have no further liability to the Buyer.

8.6 Except in respect of death or personal injury to any person caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract. For any consequential compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arises out of or in connection with the supply of the Goods or their use or resale by the Buyer, except as expressly provided in these Conditions.

8.7 The Seller shall not be liable to the Buyer or be deemed to be in breach of the contract by reason of any delay in performing, or any failure to perform, any

Of the Sellers obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Sellers reasonable control. Without prejudice to the generality of the foregoing, strikes, lockouts, or other industrial actions or trade disputes (whether involving employees of the Seller or a third party) shall be regarded as causes beyond the Sellers reasonable control.

## 9.0 Indemnity

9.1 If any claim is made against the Buyer that the Goods infringe or that their use of resale infringes the patent, copyright, design, trademark or Other industrial or intellectual property rights of any other person, the Seller shall indemnify (the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim or paid or agreed to be paid by the Buyer in settlement the claim. provided that:

9.1.1 the Seller is given full control of any proceedings or negotiations in connection with any such claim;

9.1.2 the Buyer shall give the Seller all reasonable assistance for the purposes of any such proceedings or negotiations;

9.1.3 except pursuant to a final award, the Buyer shall not pay or accept any such claim. or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);

9.1.4 the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement. and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);

9.1.5 the Seller shall be entitled to the benefit of. and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and

9.1.6 without prejudice to any duty of the Buyer at common law. the Seller shall be entitled to require the Buyer to take such steps as the seller may reasonably require mitigating or reduce any such loss, damages, costs or expenses which the Seller is liable to indemnify the Buyer under this clause.

## 10. Insolvency of the Buyer

10.1 This clause applies if the Buyer becomes insolvent, which expression shall include any or the following if:

10.1.1 the Buyer making any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becoming bankrupt or (being a company) going into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

10.1.2 an encumbrancer taking possession. or a receiver being appointed. of any of the property or assets of the Buyer. or

10.1.3 the Buyer ceasing, or threatening to cease, to carry on business; or

10.1.4 the Seller reasonably apprehending that any of the events mentioned above is about to occur in relation to the Buyer and notifying the Buyer accordingly.

10.2 If this clause 10 applies then. without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer. and if the Goods have been delivered but not paid for the Seller shall be entitled to repossess the Goods and/or be paid immediately notwithstanding any previous agreement or arrangement to the contrary.

## 11. Export Terms

11.1 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 11 shall (subject to any special terms agreed in writing between the Buyer and Seller) supplement these conditions notwithstanding any other provisions herein.

11.2 The Buyer and the Seller agree to contract upon the export Terms and Conditions of Urtica Plus Ltd

## 12. General

12.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that Other party at its registered office or principal place of business or such Other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.2 No waiver by the Seller or any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of it or any other provision.

12.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

12.4 The Contract shall be governed by the laws of England.

## 13. Data Protection Act 1998

13.1 We may transfer information about you to our financiers, who:

13.2 may use, analyse and assess information about you, including the nature of your transactions, and exchange such information with other members of their group of companies, and others for credit or financial assessment, market research, statistical analyse, insurance claim, underwriting and training purposes and in making payments and servicing their agreement with us;

13.3 from time to time, may make searches of your record at credit reference agencies where your record with such agencies may include searches made and information given by other businesses; details of their searches will be kept by such agencies but will not be seen by other organisations that may make searches;

13.4 may give information about you and your indebtedness to the following:

13.4.1 our or their insurers for underwriting and claims purposes;

If there is any inconsistency when this clause 11 applies and the Export Terms, the Export Terms shall prevail.

13.4.2 any guarantor or indemnifier of your or our obligations to enable them to assess such obligations,

13.4.3 their bankers or any advisors acting on their behalf;

13.4.4 any business to which your indebtedness or our arrangements with our financiers may be transferred – to facilitate such transfer;

13.5 may monitor and/or record any phone calls you may have with them for training and or security purposes

13.6 in the event they transfer all or any of their rights and obligations under their agreement with us to a third party, may transfer information about you to enable the third party to enforce their rights or comply with obligations.

13.7 We will provide you details of our financiers and request, including a contact telephone number if you want to have details of the credit reference agencies and other third parties referred to above from whom they obtain and to whom they may give information about you. You also have a right to receive a copy of certain information they hold about you if you apply to them in writing, however, a fee will be payable.