

## **TERMS AND CONDITIONS OF SALE**

Unless otherwise stated in writing the following conditions shall apply and “the Seller” means WAGO Limited, “the Purchaser” means any person, firm or company receiving a quotation from and/or placing an order with the Seller and “goods” means all and every item of goods or part thereof supplied by the Seller and where relevant includes any work carried out by the Seller on items supplied by the Purchaser, or any services supplied by the Seller.

### **1. QUOTATIONS AND ACCEPTANCE**

- a) Quotations are valid for thirty (30) days and represent no obligation until the Seller accepts the Purchaser’s order.
- b) In the event of inconsistency between the Seller’s and the Purchaser’s conditions the Seller’s shall prevail. No variation of the Seller’s conditions shall be binding upon the Seller unless and until the variation has been accepted in writing by a duly authorised person on behalf of the Seller.

### **2. PRICE AND DELIVERY**

- a) Prices do not include VAT.
- b) Unless otherwise agreed goods will be packed to the Seller’s normal specifications in non-returnable packaging. Delivery ex-works with carriage charges as per the published price list. Where applicable C.O.D charges will be added to the price of the goods.
- c) Release documentation and Certificates of Conformity for items supplied from bonded stock will normally be provided free of charge.
- d) Any delivery period quoted is an estimate only and commences from the Seller’s acknowledgement of the Purchaser’s order. The Seller shall be under no liability for failure to deliver on any dates quoted or agreed.
- e) The Seller reserves the right to deliver in more than one consignment and to invoice each consignment separately.
- f) In the case of sales where the Seller delivers directly or arranges carriage the Seller will repair or (at its option) replace or (at its option) issue a credit note in respect of goods lost or damaged in transit (other than by default of the customer) provided that notification of the loss or damage is made to the Seller within five days of delivery of the goods.

### **3. TITLE AND RISK**

- a)
  1. Legal ownership of the goods is to remain vested in the Seller until the goods have been paid for in full, and (at the option of the Seller) until full payment has been received by the Seller under any other contract outstanding with the Purchaser.
  2. If the Purchaser obtains possession of the goods prior to such payment, the Purchaser shall hold the goods in a separate and identifiable form as bailee and fiduciary agent for the Seller.
  3. Failure to pay the full amount when due shall give the Seller, or its employees or agents, the right to repossess the goods (and enter the Purchaser’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.
  4. The Seller shall have the right to sell the goods once they have been repossessed under this condition.
  5. Notwithstanding this clause 3 (a), the Seller shall be entitled to maintain an action for the price of the goods at any time after the day when payment is due.
  6. The Purchaser may contract to sell the goods to a third party in return for valuable consideration provided always that the Purchaser accounts in a fiduciary capacity to the Seller for the proceeds of the sale (to the extent of the Purchaser’s indebtedness to the Seller) keeping the same separate and identifiable from its other monies. The Purchaser’s rights under this condition 3 (a) 6 shall cease if an event specified in clause 17 occurs to the Purchaser.
- b) Risk in the goods shall pass in accordance with the delivery and carriage terms stated in the Seller’s acknowledgement of order or in the absence of such statement then on leaving the Seller’s premises.

### **4. PAYMENT**

- a) In the case of deliveries within the UK payment shall be due 30 days from the date of invoice except where the Seller stipulates C.W.O or C.O.D terms. Any discounts specified by the Seller shall apply only where payment is so received. Payment shall not be withheld on account of any claim by the Purchaser against the Seller. The Seller reserves the right to charge interest at 2% per month on any sum outstanding after the due date.
- b) The Seller reserves the right to suspend deliveries where payment for any order related or otherwise has not been made by the due date and remains outstanding.
- c) The Seller shall be entitled to recover from the Purchaser all direct expenses reasonably incurred by the Seller in the collection of any overdue sums.
- d) 1. Without prejudice to any other right of the Seller, if there is reason to doubt that the amounts due from the Purchaser for the supply of the goods will be paid in full according to the terms set out herein, then the Seller shall be entitled to require payment in full before delivering or performing any other work or services for the Purchaser.
- d) 2. Where payment requested in accordance with this condition is not received within 30 days of demand, the Seller shall be entitled to sell or dispose of the good produced for the Purchaser and to recover any additional loss from the Purchaser. The Seller shall also be entitled to terminate any contracts made with the Purchaser.

## 5. DESCRIPTION AND DATA

- a) Goods will be supplied substantially as described but where the Seller is the Manufacturer the right is reserved to make design changes which, however, will not lower the performance of the goods, affect their mechanical interchangeability or increase the price. Where the Seller is not the manufacturer goods will be those supplied to the manufacturer's current specification and finish.
- b) The Seller shall make every effort to ensure the accuracy of technical data or literature relating to the goods, but the Seller (so far as permitted by law) accepts no liability in contract, tort or otherwise for any damages or injury arising directly or indirectly from any error or omission in such technical data or literature. All brochures, catalogues, price lists, samples, particulars, dimensions and other advertising or descriptive material submitted to the Purchaser are intended to be approximate only and to give a general impression of the goods. Unless expressly incorporated the same shall not form part of any contracts between the Seller and the Purchaser.

## 6. GUARANTEE

- a) The Seller guarantees at its discretion to refund the price of the goods or to repair or replace free of charge any of the goods found to its satisfaction to be defective within 24 months of the date of delivery owing to faulty design, materials or workmanship, provided that notification of any defect is given to the Seller immediately upon it becoming apparent to the Purchaser, the goods have not been modified or repaired other than by the Seller and have been used, installed, operated, stored and maintained normally or within the Seller's recommendations for use.
- b) Goods returned under this guarantee shall be delivered to the Seller's premises at the Purchaser's expense and if found not to be defective (or when the defect is attributable to the Purchaser's design or materials) will be returned to the Purchaser at its expense and subject to a testing charge of 15% of the invoice price together with VAT thereon if applicable.
- c) The Seller's obligation herein to refund repair or replace the goods is the sole liability of the Seller as regards the quality, fitness or description of the goods and their correspondence with sample. All other representations warranties conditions are excluded save where not capable of exclusion at law. The Seller is under no further liability in contract, tort or otherwise for any loss, damage or injury arising directly or indirectly from or in relation to the quality fitness or description of the goods and their correspondence with sample, however the Seller accepts liability for death or personal injury arising out of its own negligence.
- d) The Seller will not operate the guarantee contained in Clause 6(a) hereof in the case of distortion, contamination or lightfastness of plastic mouldings unless stored under conditions and in packaging recommended by the Seller and plastic mouldings will not be packaged by the Seller for storage unless agreed at the time of order.
- e) The Seller shall not be liable for loss of profit, or any economic loss arising from any defect in the goods, breach of contract or liability in tort.

## 6. GUARANTEE .(Cont.)

- f) The goods shall not be considered defective for the purposes of these Conditions unless:-

1. they are not in accordance with the Purchaser's specification where this is the agreed specification.
2. if the Purchaser has no such specification or to the extent that the Purchaser's specifications is silent as to any aspect of the design, function, performance, tolerances, quality or characteristics of the goods the goods do not conform to the Seller's published information or if no such information has been published the goods do not conform to the standards which the Seller considers normal or usual or products of the kind sold at a similar price.

The Seller is not in a position to ensure the Purchaser's specification is correct and/or sufficient for the purpose intended by the Purchaser and the Purchaser must satisfy itself on this point. The Seller shall not be deemed to have knowledge of the particular purpose for which the purchaser requires the goods.

- g) In the case of goods repaired or replaced by the Seller the guarantee shall terminate at the end of the original guarantee period.

## **7. GOODS NOT MANUFACTURED BY THE SELLER**

- a) Goods not manufactured by the Seller and all software are supplied on the strict Understanding that the Seller's liability in contract, tort or otherwise shall in no circumstances extend beyond the liability to the Seller of the manufacturer or supplier of such goods or software. In particular, but not without limiting the foregoing, the benefits of the supplier/manufacturer's guarantee or warranty attaching to the goods or software shall be passed on to the Purchaser and the Seller's own terms of guarantee shall be deemed not to apply.
- b) By agreeing to purchase goods or software the Purchaser agrees to comply with the terms of any licence granted to the Seller in respect thereof and agrees to indemnify the Seller and keep it indemnified against any claim made by the relevant licensor against the Seller as a result of any act or omission on the part of the Purchaser.

## **8. FORCE MAJEURE**

The Seller shall have no liability in respect of failure to deliver or perform or delay in delivering or performing any obligations under the contract due to any cause outside the reasonable control of the Seller including but not limited to act of God, fire, floods, war and civil disturbances or riot, acts of Government, currency retraction, labour disputes, strikes, unavailability of materials or failure of supplier carrier or sub contractor to deliver on time.

## **9. PRICE VARIATION**

The Seller reserves the right to increase the price of the goods agreed to be sold in proportion to any increase of costs to the Seller between the date of acceptance of the order and the date of delivery (including but not by way of limitation those relating to exchange rates, labour, materials, transport and taxes) or where the increase is due to any act or default of the Purchaser, including the cancellation by the Purchaser of part of any order.

## **10. STORAGE**

When delivery is delayed for reason attributable to the Purchaser or its Agents, storage and other additional costs will be charged to the Purchaser and the goods will be at the Purchaser's risk from the date of commencement of such delay. The Seller reserves the right to invoice the goods at the original delivery date which shall be the date of commencement of the guarantee.

## **11. PATENT RIGHTS**

- a) The sale of the goods and publication of any information or technical data relating thereto does not imply freedom from patent, registered design or other industrial property rights in respect of any particular application of the goods.
- b) The Purchaser warrants that the designs and specifications supplied by it to the Seller will not involve the infringement of any patent, registered design or other industrial property right in the manufacture and sale of the goods by the Seller.
- c) The Purchaser undertakes to indemnify and keep indemnified the Seller against all royalties, claims, actions, demands, proceedings, losses and costs in connection with infringement or alleged infringement of any patent, registered design or other industrial property right in the manufacture, sale or application of the goods arisen out of or in connection with matters described in paragraphs (a) and/or (b) above.

## 12. U.S. EXPORT CONTROL REGULATIONS

- a) The Purchaser shall be responsible for complying with any legislation or regulations (of the United Kingdom or any other country) governing the export and import of the goods into the country of destination (and any other country through which the goods pass in transit) and for the payment of any duties thereon. The Purchaser shall fully indemnify the Seller against any fines, penalties, costs, claims, damages, losses and the expenses suffered by the Seller as a result of the Purchaser failing to comply with this condition.
- b) Any goods supplied by the Seller whose export from the United Kingdom is restricted by any aforementioned regulations shall not be exported by the Purchaser without the prior approval of the relevant authorities concerned with the administration of such regulations.

## 13. TOOLS

Tools made for the manufacture of goods to be supplied under the contract and the copyright therein remain the Seller's property notwithstanding that the Purchaser may have been debited with any sum in respect of their cost.

## 14. PURCHASER'S ITEMS

Items supplied by the Purchaser for the contract shall be of suitable quality and shall be provided free of charge in sufficient quantities and at the time required by the Seller. Any defect in items provided by the Purchaser shall not entitle the Purchaser to rescind the contract, reject the goods, make deductions from the contract price or claim damages in respect of such defect and the Purchaser shall indemnify and keep indemnified the Seller from and against all action, demands, claims, proceedings, losses, or costs arising from the supply of defective items by the Purchaser.

## 15. LIMITATION OF LIABILITY

Save in the case of personal injury or death caused by the negligence of the Seller the Seller shall not be liable in contract, tort or otherwise for any loss or damage suffered by the Purchaser whatsoever or howsoever arising out of or in connection with the supply of goods or services by the Seller other than to supply goods conforming to the original agreed specification or at the Seller's option to refund to the Purchaser any monies already paid in respect of the goods, to the extent that the Seller is held legally liable to the Purchaser for breach of contract, any tort or otherwise, the Seller's liability for the same shall not exceed the price of the goods or (25,000) pounds (whichever is the higher).

## 16. CANCELLATION AND RETURNED GOODS

- a) Cancellations will not be accepted for non-catalogued items.  
If the Seller agrees to accept cancellation or part cancellation of an order for catalogued items a charge of 20% of total order price will be made.
- b) Except under the guarantee in Clause 6 no returns are permitted without the Seller's previous consent.
- c) If the Seller agrees to accept returns other than under the guarantee contained in Clause 6 they must be returned at the Purchaser's expense in the original condition and if tested by the Seller will be subject to a minimum charge of 15% of invoice price together with VAT thereon if applicable.

## 17. TERMINATION

If the Purchaser commits any breach of the terms and conditions of the contract or suffers distress or execution or becomes insolvent or commits an act of bankruptcy or enters into any arrangement or composition with his creditors a petition is presented or an order is made or a resolution is passed for the winding up of the Purchaser, or if an administrative receiver is appointed over any part of the Purchaser's business, or if a petition is presented or an order is made for an administration order to be made in relation to the Purchaser, the Seller may without prejudice to any rights which may have accrued or which may accrue to it terminate the contract summarily by the notice in writing.

## 18. LAW

The contract made between the Seller and the Purchaser shall be governed in all respects by English Law and be subject to the sole jurisdiction of the English courts.