

**AMDALÉ LIMITED
STANDARD TERMS AND CONDITIONS
OF PURCHASE**

1. Definition

1.1 In these conditions the following words have the following meanings;

“**Buyer**” means Amdale Limited, units 6 & 7, Culverin square, Limberline Road, Portsmouth, Hants. PO3 5BU.

“**Seller**” means the organisation or person so described in the order.

“**Conditions**” means the standard conditions of purchase set out in this document (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the buyer and seller.

“**Order**” means the buyers purchase order to which those conditions are annexed.

“**Goods**” means the goods (including any instalment, process or any part of them) described in the order.

“**Contract**” means the contract for the sale and purchase of the goods, supply and acquisition of the services on the conditions.

“**Specification**” includes any plans, drawings, data or other information relating to the goods or services.

“**Delivery address**” means the address stated on the order.

“**Writing**” includes E-mails, facsimile transmission and comparable means of communication.

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

1.3 The headings in these conditions are for convenience only and shall not affect their interpretation

2. Terms of purchase

2.1 The order constitutes an offer by the buyer to purchase the goods and/or acquire services subject to the conditions.

2.2 These conditions shall apply to the contract to the exclusion of any other terms and conditions on which the quotation has been given to the buyer or subject to which the order is accepted or purported to be accepted by the seller.

2.3 The buyer reserves the right to cancel the order unless accepted by the seller in writing within 14 days of its date.

2.4 No variation to the order or these conditions shall be binding unless agreed in writing between the authorised representatives of the buyer and seller.

3. Quality and defects

3.1 The goods shall be of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the order and specification and/or patterns supplied or advised by the buyer to the seller.

3.2 The seller shall be aware of, control and prevent the use of counterfeit and suspect non-approved parts.

3.3 The buyer's rights under these conditions are in addition to the statutory conditions implied in favour of the buyer by the Sale of Goods Act 1979.

3.4 At any time prior to delivery of the goods, the buyer shall have the right to inspect and test the goods at all times.

3.5 If the results of such inspection or testing cause the buyer to be of the opinion that the goods do not conform or are unlikely to conform with the order or to any specifications and/or patterns supplied or advised by the buyer to the seller, the buyer shall inform the seller and the seller shall immediately take such action as is necessary to ensure conformity and in addition the buyer shall have the right to require and witness further testing and inspection.

3.6 Notwithstanding any such inspection or testing, the seller shall remain fully responsible for the goods and any such inspection or testing shall not diminish or otherwise affect the seller's obligations under the contract.

3.7 If any of the goods fail to comply with the provisions set out in these conditions the buyer shall be entitled to avail itself of any one or more remedies listed in these conditions.

3.8 The seller shall be aware of the importance of product conformity, product safety and the importance of ethical behaviour.

3.9 Without exception any non conforming goods still in the possession of the seller must be returned, inclusive of scrapped, damaged or non-approved goods for the buyer's records and correct disposal.

3.10 The buyer, their customers and any regulatory authorities retain the right of access to all supplier facilities to the applicable areas, at any level of the supply chain involved in the order, and to all applicable records.

3.11 The seller is required to retain all relevant records and documentation indefinitely unless expressed alternatively in writing by the buyer.

3.12 The supplier must notify the buyer of any changes in product and/or process, change of authorised suppliers and changes of facility locations.

4. Remedies

4.1 Without prejudice to any other right or remedy which the buyer may have, if any goods are not supplied in accordance with, or the seller fails to comply with, any of the terms of the contract the buyer shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the goods have been accepted by the buyer:

4.1.1 To rescind the order;

4.1.2 To reject the goods (in whole or in part) and return them to the seller at the risk and cost of the seller on the basis that a full refund for the goods so returned shall be paid forthwith;

4.1.3 At the buyer's option to give the seller the opportunity at the seller's expense either to remedy any defect in the goods or to supply replacement goods and carry out any other necessary work to ensure that the terms of the contract are fulfilled;

4.1.4 To refuse to accept any further deliveries of the goods but without any liability to the seller;

4.1.5 To carry out at the seller's expenses any work necessary to make the goods comply with the contract; and

4.1.6 To claim such damages as may have been sustained in consequence of the seller's breach or breaches of the contract. This would be limited to ten times the value of the goods in question.

5. Indemnity

5.1 The seller shall keep the buyer indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include, loss of profit, loss of business, depletion of goodwill and like loss) loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the buyer as a result of or in connection with:

5.1.1 Defective workmanship, quality or materials;

5.1.2 An infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the goods;

5.1.3 Any claim made against the buyer in respect of any liability, loss, damage, injury, cost or expenses sustained by the buyer's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the goods as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the contract by the seller.

6. Delivery

6.1 The goods shall be delivered, carriage paid, to the buyer's place of business or to such other place of delivery as is specified by the buyer in writing prior to delivery of the goods. The seller shall off-load the goods as directed by the buyer.

- 6.2 The date for delivery shall be specified in the order, or if no such date is specified then delivery shall take place within 28 days of the order.
- 6.3 The seller shall invoice the buyer upon, but separately from, despatch of the goods to the buyer.
- 6.4 The seller shall ensure that each delivery is accompanied by a delivery note which shows, inter alia, the order number, date of order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 6.5 Time for delivery shall be of the essence of the contract.
- 6.6 Unless otherwise stipulated by the buyer in the order, deliveries shall only be accepted by the buyer in normal business hours.
- 6.7 If the goods are not delivered on the due date then, without prejudice to any other rights which it may have, the buyer reserves the right to:
- 6.7.1 Cancel the contract in whole or in part;
- 6.7.2 Refuse to accept any subsequent delivery of the goods which the seller attempts to make;
- 6.7.3 Recover from the Seller any expenditure reasonably incurred by the buyer in obtaining the goods in substitution from another supplier; and
- 6.7.4 Claim damages for any additional costs, loss or expenses incurred by the buyer which are in any way attributable to the Seller's failure to deliver the goods on the due date.
- 6.8 If the seller requires the buyer to return any packaging material to the seller that fact must be clearly stated on any delivery note delivered to the buyer and any such packaging material will only be returned to the seller at the cost of the seller.
- 6.9 Where the buyer agrees in writing to accept delivery by instalments the contract will be construed as a single contract in respect of each instalment. Nevertheless failure by the seller to deliver any one instalment shall entitle the buyer at its option to treat the whole Contract as repudiated.
- 6.10 If the goods are delivered to the buyer in excess of the quantities ordered the buyer shall not be bound to pay for the excess and any excess will be and will remain at the Seller's risk and will be returnable at the Seller's expense.

7. Risk/Property

- 7.1 The Goods shall remain at the risk of the seller until delivery to the buyer is complete (including off-loading and stacking) when ownership of the goods shall pass to the buyer.

8. Price

- 8.1 The price of the goods shall be stated in the order and unless otherwise agreed in writing by the buyer shall be exclusive of value added tax but inclusive of all other charges.
- 8.2 No variation in the price or extra charges will be accepted by the buyer.

9. Payment

- 9.1 The seller may invoice the buyer on or at any time after delivery of the goods.
- 9.2 The buyer shall pay the price of the goods within 60 days of the end of the month in which an invoice in respect of the goods is delivered to the buyer, but time for payment shall not be of the essence of the contract.
- 9.3 Without prejudice to any other right or remedy, the buyer reserves the right to set off any amount owing at any time from the seller to the buyer against any amount payable by the buyer to the seller under the contract.

10. Confidentiality

- 10.1 The seller shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the seller by the buyer or its agents and any other confidential information concerning the buyer's business or its products which the seller may obtain and the seller shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the seller's obligations to the buyer and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Seller.

11. Assignment

- 11.1 The seller shall not be entitled to assign the contract or any part of it without the prior written consent of the buyer.
- 11.2 The buyer may assign the contract or any part of it to any person, firm or company.
- 11.3 Requirements including customer requirements must flow down to the supply chain where applicable. (This includes requirements in purchasing documentation, and key characteristics).
- 11.4 The seller shall be responsible for the conformity of all externally provided processes, products, and services, including from sources defined by the customer.
- 11.5 The seller shall ensure, when required, that customer-designated or approved external providers, including process sources are used.
- 11.6 The seller shall identify and manage risks associated with the external provision of processes, products, and services, as well as the selection and use of external providers.
- 11.7 The seller shall apply appropriate controls to direct and sub-tier external providers, to ensure that requirements are met.

12. The Company's Property

- 12.1 Materials, equipment, tools, dies, moulds, copyright, design rights or any other forms of intellectual property rights in all drawings, specifications and data supplied by the buyer to the seller or not so supplied but used by the seller specifically in the manufacture of the goods shall at all times be and remain the exclusive property of the buyer but shall be held by the seller in safe custody at its own risk and maintained and kept in good condition by the seller until returned to the buyer and shall not be disposed of other than in accordance with the buyer's written instructions, nor shall such items be used otherwise than as authorised by the buyer in writing.

13. Termination

- 13.1 The buyer shall have the right at any time and for any reason to terminate the contract in whole or in part by giving the seller written notice whereupon all work on the contract shall be discontinued and the buyer shall pay to the seller fair and reasonable compensation for work-in-progress at any time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
- 13.2 The buyer shall have the right at any time by giving notice in writing to the seller to terminate the contract forthwith if:
- 13.2.1 The seller commits a breach of any of the terms and conditions of the contract;
- 13.2.2 Any distress, execution or other process is levied upon any of the assets of the seller;
- 13.2.3 The seller has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the seller or notice of intention to appoint an administrator is given by the seller or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding up of the seller or for the granting of an administration order in respect of the seller, or any proceedings are commenced relating to the insolvency or possible insolvency of the seller;
- 13.2.4 The seller ceases or threatens to cease to carry on its business; or
- 13.2.5 The financial position of the seller deteriorates to such an extent that in the opinion of the buyer the capability of the seller adequately to fulfil its obligations under the contract has been placed in jeopardy.

13.3 The termination of the contract, however arising, will be without prejudice to the rights and duties of the buyer accrued prior to termination. The conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

14. Force Majeure

14.1 The buyer reserves the right to defer the date of delivery or payment or to cancel the contract or reduce the volume of the goods ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the buyer including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

15. Governing law and jurisdiction

15.1 Each right or remedy of the buyer under the contract is without prejudice to any other right or remedy of the buyer whether under the contract or not.

15.2 If any provision of the contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the contract and the remainder of such provision shall continue in full force and effect.

15.3 Failure or delay by the buyer in enforcing or partially enforcing any provision of the contract will not be construed as a waiver of any of its rights under the contract.

15.4 Any waiver by the buyer of any breach of, or any default under, any provision of the contract by the seller will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the contract.

15.5 The parties to this contract do not intend that any term of this contract will be enforceable by virtue of the contracts (Rights of Third Parties) Act 1999 by any person that is not party to it.

15.6 The formation, existence, construction, performance, validity and all aspects of the contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.