

CONDITIONS OF SALE



1. **Definitions in These Conditions of Sale ("the Conditions")**
 - a) "The Company" means "Ultra Precision Products Ltd."
 - b) "The Buyer" means the person, firm or company ordering or purchasing the goods from the Company.
 - c) "Goods" means "Goods and services".
 - d) "The Specification" means the technical description of the goods (if any) contained or referred to in any quotation or acceptance of order by the Company.
 - e) "Special Conditions" are any terms (including any specification) set out by the Company in any quotation or acceptance of order by the Company.
 - f) "The Contract" means the contract for sale and purchase of the goods made between the Company and the Buyer to which the Conditions and Special Conditions apply.
 - g) "Delivery means" when carriage is arranged by the Company by its own transport or otherwise delivery shall be deemed to take place at the moment when possession or control of goods is offered or transferred to the Buyer or its agent at a delivery address before off-loading or otherwise. When carriage is arranged by the Buyer by its own transport or otherwise delivery shall be deemed to take place when possession or control of goods is passed by the Company to the carrier.
 2. **Application**
 - a) These Conditions apply to all contracts for the sale of goods by the Company to any Buyer and prevail over and extinguish all terms and conditions of contract imposed or sought to be imposed by the Buyer or implied by trade, custom, practice or course of dealing in so far as such terms and conditions are inconsistent therewith or additional thereto. Purported provisions to the contrary are hereby excluded. No alteration, exclusion or waiver of any of these conditions shall be effective or binding unless made in writing by a duly authorised representative of the Company.
 3. **Notices**
 - a) Any notice or communication (including without limitation invoices or other documents) may be sent by first class post, facsimile, email or delivered to the Company at its registered office or to the Buyer at any address which it may have used in correspondence with the Company or (if the Buyer is a company) at its registered office or may be served personally on any director or the secretary of the Buyer.
 - b) A notice by first class post shall be deemed served on the next working day after posting.
 - c) A notice by facsimile, email or delivered shall be deemed served at the time of sending.
 4. **Quotations and Orders**
 - a) A quotation or estimate by the Company does not constitute an offer and may be revised or withdrawn at any time prior to the Company's acceptance of the Buyer's order.
 - b) The Buyer's order, whether verbal or written, shall not be deemed to have been accepted by the Company until written acceptance has been issued by the Company.
 - c) The Company's acceptance of the Buyer's order shall be conditional upon approval of the Buyer's credit. Where such approval has not been given, cash must accompany the order.
 - d) No order which has been accepted by the Company may be cancelled or varied by the Buyer except with the written agreement of the Company and on such terms that the Buyer shall indemnify the Company in full against all loss (including loss of profits), costs (including costs of labour, materials ordered or used, tooling and setting of machines and all manufacturing costs), damages, charges and expenses incurred by the Company as a result of such cancellation or variation.
 5. **Prices**
 - a) Prices payable for the goods shall be as detailed in the Company's written acknowledgement of order.
 - b) The Company may at any time revise prices to take into account any increase in the Company's costs (including, but not limited to the cost of raw materials, labour, transport or other overheads, any tax due or other levy and variation in exchange rates).
 - c) Unless otherwise specified, VAT and any other tax or duties payable by the Customer shall be added to the price.
 - d) When certification is requested by the Buyer the Company reserves the right to charge for any certificates supplied.
 - e) Prices in currencies other than pounds sterling are subject to increase in price based on the exchange rate applicable at the date of payment.
 - f) The Buyer shall pay or reimburse any tax, levy or charge of whatever nature imposed by the authorities in any foreign country.
 6. **Deliveries**
 - a) Estimated delivery dates (if any) are given in good faith but are not binding unless so confirmed in writing in the Company's acceptance of an order and in that event time shall not in this respect be of the essence of the contract.
 - b) Goods may be delivered by the Company in advance of the quoted delivery date.
 - c) "The purchase orders we place on the Company are divisible. Each delivery made thereunder:
 - (i) shall be deemed to arise from a separate contract, and
 - (ii) shall be invoiced separately and any invoice for a delivery shall be payable in full in accordance with the terms of payment provided for therein without reference to and notwithstanding any defect or default in the delivery of any other instalment or of any other instalment under any other contract."
 - d) Where the contract provides for delivery by schedule or instalments (whether or not on specified dates) and the Buyer fails to take delivery of an instalment the Company shall not in any event be bound to make up such instalment according to any informal or binding schedules, programme or timetable.
 - e) When the Buyer is to arrange carriage, the Buyer shall procure:
 - i) that delivery takes place as soon as possible after the Company has given notice that a consignment is ready and in any event within four days of such notice and ;
 - ii) that the transport is suitable in all respects to carry the goods involved and the Company may without liability withhold delivery if in its opinion the transport is unsuitable in any respect.
 - f) Without prejudice to other conditions receipt or delivery note signed by or on behalf of a Buyer or by its purported agent, employee or carrier or a statement that goods have been duly delivered signed by an agent, employee or carrier of the Company shall be conclusive proof that goods have been duly delivered and as to the date and time of delivery.
 - g) Unloading - the Buyer shall provide all necessary labour, access assistance and facilities at the delivery address for unloading goods.
 7. **Payment Terms**
 - a) Payment of invoices shall be made in full without deduction or set off within one calendar month from the end of the month in which the goods are invoiced unless otherwise agreed in writing upon acceptance of order.
 - b) Any extension of credit to the Buyer may be withdrawn or altered at anytime.
 - c) We understand and will exercise our statutory right to claim interest and compensation for debt recovery costs under the late payment legislation if we are not paid according to agreed credit terms.
 - d) Payment shall not be deemed to have been made until payment in cash or cleared funds has been received by the Company.
 - e) The Company may appropriate any payment made by the Buyer (on any account) to any goods under the contract or any other contract as the Company may think fit (notwithstanding any purported appropriation by the Buyer).
 - f) The Company may exercise a lien on any property of the Buyer in the possession of the Company for any indebtedness by the Buyer to the Company.
 - g) Where the Buyer :-
 - i) is overdue with any payment owed to the Company, or;
 - ii) shall have failed to take delivery of goods, or ;
 - iii) makes default in or commits any breach of its other obligations to the Company here under or any other contract between the Company and the Buyer, or ;
 - iv) commits an act of bankruptcy, enters into a deed of arrangement or;
 - v) compounds with his creditors or a receiving order is made against him, or passes a resolution or has an order made for its winding up or has a receiver appointed over, upon or for its assets or when execution or distress is levied upon its assets or if the Buyer under the national law of its own country suffers the equivalent of any of them, or;
 - vi) ceases or threatens to cease trade :-
 - 1) and then if the Company shall reasonably doubt the solvency of the Buyer the Company reserves the right :-
 - 1) to stop manufacture and delivery under any contract made between the Buyer and the Company and manufacture and future deliveries made under this and any other contract will only be recommenced upon payment by the Buyer in full of all outstanding accounts due. If the Company exercises its right to cease manufacture and deliver, any goods to be delivered to a Buyer following default shall be paid for on pro forma invoice before or at the time of despatch of the goods and payment will become due on receipt of such pro forma invoice. In no circumstances shall the Company be liable for loss of any nature suffered by a Buyer as a result of the application of this condition nor shall it be a reason for the cancellation of this or any other contract which shall at the Company's option remain in full force and effect;
 - 2) to determine the rights of the Buyer under Condition 12 hereof;
 - 3) by notice in writing to the Buyer to determine the contract.
8. **Quantities and Instalments**
 - a) The Company reserves the right to manufacture and deliver the goods in such quantities and in such instalments for delivery as will minimise production costs.
 - b) The Company will endeavour to deliver the quantity of goods ordered but every delivery shall be deemed to comply with the order if there is a surplus not exceeding (10%) or shortage not exceeding (10%) and in such event the Buyer shall pay for the quantity actually delivered.
9. **Failure to Accept Delivery**

If the Buyer fails to accept or take delivery by or from the Company or if there is no representative of the Buyer at the delivery address to accept delivery or if the Buyer does not pick up goods within four days of notice as aforesaid (whichever may be the case):-

 - a) the Company at its own initiative (and without prejudice to any rights against the Buyer) or at the request of the Buyer may store goods at the risk of the Buyer and the Buyer shall pay upon demand the reasonable storage costs of the Company and all other expenses involved including insurance (at the Company's option), costs of re-delivery, loading and unloading and goods may be re-invoiced at the rates ruling at the date of actual despatch;
 - b) the Company may deliver by itself or by its agent at the cost of the Buyer any goods which the Buyer has failed to collect within four days of notice as aforesaid;
 - c) the Company may sell goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the contract price or charge the Buyer for any shortfall below the contract price;
 - d) the Company may deposit goods at or near the address which shall constitute due delivery.
10. **Risk**
 - a) Risk in the goods shall pass to the Buyer on delivery.
 - b) The Buyer shall insure goods against loss or damage in their full invoice price in the joint names of the Company and the Buyers from delivery until payment in full has been made.
11. **Packing**

Goods will be packed without additional charge at the discretion of the Company either in cartons or returnable cases / pallets.

A charge in respect of the returnable cases / pallets will be invoiced unless returned undamaged to the Company carriage paid within one month of delivery of the goods to the Buyer.
12. **Title Reservation**
 - a) Notwithstanding delivery, the goods shall remain the absolute property of the Company (which reserves the right to dispose of them) until the Company has received the full price for the goods and the full price for any other goods for which payment is due from the Customer.
 - b) Until property in the goods passes to the Buyer the relationship between the Company and the Buyer shall be that of bailer and bailee and the Buyer shall store the goods separately, fully protected and insured and in such a way that they are readily identifiable as the property of the Company.
 - c) If before the property in the goods passes to the Buyer:-
 - i) the goods are altered or other goods become attached to the goods or if any part of the goods is replaced such other goods or replacement parts shall accede to and form part of the goods and such attachment and placement shall not affect the Company's title as absolute owner of the goods.
 - ii) the goods are sold by the Buyer, such sale or sales shall be deemed to be on behalf of the company, but without imposing any liability on the Company to the sub-purchaser and the Buyer shall hold part of the proceeds of sale or rights arising there from against the sub-purchaser as represents the sum due to the Company for such goods as trustee for the Company and the Buyer

- shall keep such part of the proceeds of such sale separate from its other moneys and account to the Company accordingly. The Buyer shall forthwith upon receipt of written notice from the Company assign to the Company all rights and claims which the Buyer may have against any such sub-purchaser as aforesaid.
- d) If payment of the price of the goods or any part of it is overdue or if it appears to the Company that the Buyer is or may be insolvent, the Company may require the Buyer to deliver up the goods to the Company and, if the Buyer fails to do so forthwith, the Buyer shall permit the Company to recover and resell the goods and by its servants or agents enter upon the Buyer's premises (or such other premises where the goods are stored or situated) for that purpose.
- e) 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 Company but if the Buyer does so or purports to do so, all moneys owing by the Buyer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.
13. Tools, Jigs, Fixtures and Inspection Equipment
These are invoiced at part cost only and being made under the Company's special process are to remain the property of the Company and under no circumstances whatsoever can they leave the Company's premises. They will be stored and maintained during their normal useful life at the Company's expense and will only be used in accordance with the Buyer's instructions. Every care will be taken in maintenance, but the Company does not undertake to replace worn out equipment. Forthwith upon the approval by the Buyer of sample components the Company will invoice the part cost which will be due and payable at the end of the month following the month of invoice.
14. Indemnity and Intellectual Property
The Buyer hereby warrants that any designs, drawings specification or other information or any models, specimens or other articles provided to the company are his own unencumbered property and will indemnify the Company against all and any costs, expenses, damages or penalties incurred by the Company as a result of, or in connection with, any infringement or alleged infringement of any patent or design or any other right whether or not of same nature as the foregoing to which any third party may be entitled arising out of the use of any drawings, designs, specification, models or specimens or other information or articles furnished by or instructions given by the Customer.
15. Force Majeure
The Company shall not be liable to the Buyer or be deemed to be in breach of the contract by reason of any delay in delivery or any delay in performing or any failure to perform any of the Company's obligations if the delay or failure arises directly or indirectly to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control: Act of God, explosion, flood, storm, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bylaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; import or export regulations or embargoes; strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Company or a third party); difficulty or increased expense in obtaining materials, labour, transport, fuel, parts or machinery; power failure or breakdown in machinery.
16. Liability and Warranty
a) The Company shall not be liable to the Buyer for :-
i) shortages in quantity delivered unless the Buyer notifies the Company of any claim for short delivery within 7 days of receipt of the goods;
ii) damage to or loss of the goods or any part thereof in transit (where the goods are carried by the Company's own transport or by a carrier on behalf of the Company) unless the Buyer shall notify the Company in writing of any such claim within 7 days of receipt of the goods or receipt of the Company's advice of consignment whichever shall be the earlier;
iii) defects in the goods caused by any act, neglect or default of the Customer or of any third party;
iv) other defects in the goods unless notified to the Company within one month of receipt of the goods by the Customer or where the defect would not be apparent on reasonable inspection within six months of delivery.
b) If the goods are to be manufactured or any processes to be applied to the goods by the Company in accordance with specifications submitted by the buyer, the Buyer shall indemnify the Company against all losses, damages, costs and expenses, awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent, copyright, design, trademark, or other intellectual property rights of any other person which results from the Company's use of the Buyer's specification.
Further :-
c) The Company may, at its option make good any shortage or non-delivery and / or as appropriate replace or repair any goods found to be damaged or defective and shall be under no further liability to the Buyer. If requested by the Company, the Buyer, at the Buyer's risk, will return to the Company, carriage paid, goods the subject of complaint. The Company will be under no obligation whatsoever in respect of goods which have deteriorated or been damaged during return transit.
d) The Company's aggregate liability to the Customer whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the cost of the defective, damaged or undelivered goods determined by net price invoiced to the Customer.
e) The Company's prices are determined on the basis of the limits of liability set out in the Conditions. The Buyer may by written notice to the Company request the Company to agree a higher limit of liability provided insurance can be obtained thereof. Any higher limits must be agreed by the Company in writing, signed by an officer of the Company. If the Company shall effect insurance up to such limit the Buyer shall pay upon demand the amount of any and all premiums. The Buyer shall disclose such information as the insurers shall require and in no case the Buyer be entitled to recover from the Company more than the amount received from the insurers.
f) Subject to the foregoing and to the fullest extent permitted by law all conditions, warranties and representations or implied by statute, common law or otherwise in relation to the goods are hereby excluded and the Company shall be under no liability to the Buyer for any loss, damage or injury, direct or indirect, resulting from defective material, faulty workmanship or otherwise howsoever arising and whether or not caused by the negligence of the Company, its employees or agents SAVE THAT the Company shall accept liability for death or personal injury caused by the negligence of the Company.
g) It shall be the responsibility of the Buyer to ensure that the goods shall be suitable for the particular application and for use under the particular conditions for which they are purchased. Suitability may be dependent upon operating and other conditions over which the Company has no control.
h) In no event will the Company be liable:-
i) in respect of goods which are given unfair or improper usage or which are used for any purpose other than that for which supplied or in abnormal working conditions;
ii) in respect of goods which have been damaged or altered or repaired in any manner after delivery;
iii) for fair wear and tear;
iv) if the Buyer has failed to follow instructions and recommendations for use, maintenance or otherwise;
v) in respect of any defect in goods arising from any documents or tooling supplied or instructions given by the Buyer
vi) in respect of any goods not manufactured by the Company but the Company at the request and cost of the Buyer shall use its reasonable endeavours to pass to the Buyer the benefit of any warranty or guarantee given by the manufacturer;
vii) in respect of goods which have been used after discovery of defect.
i) Customers returns:-
i) The Buyer is legally bound to purchase the goods comprised in the contract and return of the goods will not be accepted without prior written consent of (an officer of) the Company. In no event will returns or cancellation be accepted on goods made to the Buyer's order.
ii) The Buyer will be responsible for the packing and carriage of any goods returned for any reason (in the original packaging). Goods returned will remain at the risk of the Buyer until certified as safely received by the Company. The Company may in any event refuse to accept back any goods which have deteriorated or been damaged during return or which are incomplete.
j) Any advice or recommendation given by the Company or its employees or agents to the customer or its employees or agents as to the storage, application or use of goods is followed or acted upon entirely at the Buyer's own risk and accordingly the Company shall not be liable for any such advice or recommendation.
k) The Buyer acknowledges that:-
i) no statement or representation (save as may have been made by the Company in writing) which may have been made to the Buyer or anyone concerned on the Buyer's behalf by or on behalf of the Company induced the Buyer to enter into the contract;
ii) any such statement or representation as aforesaid does not form part of the contract; and
iii) any liability of the Company and any remedy of the Buyer at law or in equity in respect of any such statement or representation as aforesaid is hereby excluded save in so far as liability in respect of any particular statement or representation may not be excluded pursuant to law.
l) Subject and without prejudice to the Conditions the Company shall be under no liability to the Buyer in respect of any claim made by any third party against the Buyer for breach of intellectual property rights;
i) unless the Buyer notifies the Company forthwith of any claim or threatened claim or any circumstances which might give rise to a claim together with full details;
ii) if the Buyer makes any admission without the Company's written consent;
iii) unless the Buyer permits to the Company to have the conduct of any proceedings subject to reasonable security for costs;
iv) unless the Buyer keeps the Company fully informed at all times as to any matters arising.
17. Assignment
The Contract is personal to the Buyer who or which shall have no right to assign or delegate all or any of its rights and obligations hereunder.
18. Severance
The conditions are considered and acknowledged by the Buyer to be reasonable in the circumstances and the trade. Any avoidance or restriction or limitation upon them or their effect by law shall be limited to the condition or the part of the condition and the issue to which it specifically relates and applies and no further. If any condition or part of a condition or limitation of liability is found to be invalid and would be valid if it or some part thereof were deleted or modified as amended it shall at the option of the Company take effect with such deletion, modification or amendment as may be necessary to make it valid and effective. If the Company at its discretion decides that the effect of any such avoidance restriction or limitation is to defeat the original intention of the parties the Company may without liability cancel the contract.
19. Waiver
Failure on the part of the Company to exercise or enforce any right conferred by the contract shall not be deemed to be a waiver of any such right to operate so as to bar the exercise or enforcement thereof or any other right on any later occasion.
20. Sub-Contracting of Work
The Company reserves the right to sub-contract the whole or any part of the fulfilment of the order at its absolute discretion.
21. Jurisdiction
The contract between the Company and the Buyer shall be deemed to have been made in England and shall be governed in all aspects by English law. The Buyer shall submit to the jurisdiction of the English courts provided that the Company at its option may bring any legal proceedings against the Buyer in the courts of any other country.
22. Arbitration
Any dispute at the option of the Company in its sole discretion may be referred to an arbitrator or expert to be appointed by the British Turned Parts Manufacturers Association and his award including any direction as to payment of fees and costs in the arbitration or award shall be binding.