



GENERAL TERMS AND CONDITIONS OF SALE

All quotations and sales of products ("Products") made by Excelitas UK Limited, as stated on the order form, ("Seller") to the customer identified on the offer, order form, invoice or sales acknowledgement form to which these terms and conditions are attached ("Buyer") are subject to these terms and conditions (the "Terms"). These Terms together with the order form, invoice or sales acknowledgement form constitute the "Contract".

1. Acceptance of Terms. These Terms apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or dealing. The Buyers Order ("Order") constitutes an offer by the Buyer to purchase the Products in accordance with these Terms. The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence. No proposal, oral agreement, order acknowledgement or other understanding shall in any way modify this Order, or the Terms.

2. Orders. Each Order submitted by Buyer shall include: (a) identification of the Products ordered by Buyer; (b) the requested delivery date; (c) any preferred shipping instructions and the shipping destination; (d) the price of Products ordered; (e) the billing location; and (f) Buyer's tax status (exempt or non-exempt). Shipments of Products must be scheduled within twelve (12) months from the date ordered. Sellers standard order acceptance process is to acknowledge acceptance or propose modifications to Orders within fourteen (14) business days of receipt.

3. Order Cancellation.

- Cancellation by Buyer.** No Order cancellations by Buyer are permitted.
- Bankruptcy.** Seller reserves the right to cancel a part of any accepted Order if bankruptcy proceedings are initiated by or against Buyer.

4. Delivery and Shipment.

- Proposed Delivery Dates.** All proposed delivery and proposed shipment dates provided by Seller to Buyer are estimates only. Seller will make reasonable efforts to meet the delivery date(s) quoted.
- Packing and Loss or Damage in Transit.** Products will be packed for shipment in a manner suitable to the method of shipment specified by Buyer, or the method selected by Seller in the absence of instructions from Buyer. Should Buyer request any special packing, the request will be fulfilled at Buyer's expense.
- Force Majeure.** Seller shall not be liable for any delay or failure to perform due to any cause beyond its control. Such causes include, but are not limited to, strikes, acts of God, acts or omissions of Buyer, interruption of transportation, inability to obtain necessary labour, materials, or facilities, or Seller's voluntary or mandatory compliance with any governmental act, regulation, or request. Any delivery schedule shall be extended by a period of time equal to the time lost because of any excusable delay. In the event Seller is unable to perform for a period of more than sixty (60) days because of any cause beyond its control, Seller may terminate the Contract without any liability to Buyer.
- Buyer Caused Delay.** In the event that delivery is delayed due to any causes within Buyer's control, including but not limited to any Buyer request for delay honoured by Seller, any warehousing, freight, insurance and other costs incurred by Seller in conjunction with any shipment so delayed shall become by Buyer.
- Payment Due For Partial Deliveries.** If Seller is unable to provide the entire quantity of Products ordered by Buyer, Seller may, in Seller's sole discretion and without any liability to Buyer, allocate Products among Buyer and other customers or potential customers and make deliveries in instalments, and the Order shall be severable to such instalment(s). In the event of such allocation, any payments due pursuant to Section 5 shall be pro-rated in accordance with the quantity of Products delivered to Buyer.
- Delivery and Acceptance.** All deliveries are EXW (Incoterms 2010) Seller's manufacturing facility, and at risk of loss or damage to Products in transit is upon Buyer. Title and at risk in the Products shall pass to Buyer upon delivery. Seller retains a security interest in the Products until Buyer makes full payment. If requested by Seller, Buyer agrees to execute any financing statements necessary to perfect such security interest. Within thirty (30) days of delivery Buyer shall be entitled to reject the products on the grounds that they do not conform to the agreed Contract specification(s). If the Buyer has not exercised its right of rejection within the said thirty day period, the Products shall be deemed to have been accepted.
- Inspection.** Buyer shall inspect the Products immediately upon receipt and shall, within five (5) business days after receipt, give written notice to Seller of any claim for shortage or that the Products do not conform to the Order. If Buyer shall fail to give such notice, all claims for shipment shortage and non-conformance with the Order shall be deemed waived.
- Return of Products.** Return of Products, defective or otherwise, will not be accepted by Seller without (i) written notification from Buyer to Seller within 30 days of delivery and (ii) receipt of a return material authorization ("RMA") from Seller. Products authorized to be returned shall be shipped DAP (Incoterms 2010) Seller's facility. When return of nonconforming goods has been accepted by Seller, conforming shipment may be made in accordance with this Section 4 without further liability on Seller's part. Buyer shall bear at risk of loss or damage to returned Products while in transit. Seller reserves the right to examine any alleged non-conformance. Buyer will be liable for restocking charges in the event Products are returned to the Seller that are not defective and are in accordance with these terms.
- Prices, Payment, Credit Terms.** Seller shall furnish the Products in accordance with the prices and delivery schedule stated on the face of the Order or, if no price is quoted, the price set out in the Sellers published price list in force as at the date of delivery. The Seller, may, by giving notice to the Buyer at any time before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to (a) any factor beyond the Sellers control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); (b) any request by the Buyer to change the delivery date(s), quantities or types of Products ordered, or the specification; or (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions. The price of the Products excludes amounts in respect of value added tax (VAT), which the Buyer shall additionally be liable to pay to the Seller at the prevailing rate, subject to the receipt of a valid VAT invoice. At prices include all applicable taxes except sales taxes which are separately shown when applicable. Buyer shall bear, in addition to the purchase price, the amount of any freight, insurance, handling and other duties levied on the shipment of Products. The Seller may invoice the Buyer for the Products on or at any time after the completion of delivery. Payment is due net thirty (30) days from the date of Seller's invoice. All payments shall be made in sterling to the bank account nominated in writing by the Seller. Time for payment is of the essence. The Buyer shall be liable for all amounts due under the Contract, whether or not such amounts are deducted or withheld (except for any deduction or withholding required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer. In the event Seller finds it necessary to refer an account to a debt collection agency for collection of overdue accounts, Buyer shall pay all costs of collection including, without limitation, reasonable fees. Seller reserves the right at any time to revoke any credit extended to Buyer, change the credit terms provided herein or cancel Buyers order because of Buyers failure to pay for any Products when due or for any reason deemed good and sufficient by Seller and in such event all subsequent shipments shall be suspended until Buyer's account is current or so declared, or canceled at Sellers option. If Seller chooses to change Buyers credit terms and, within thirty (30) days of receipt of written notice of change to credit terms, Buyer fails to agree to and comply with different terms of credit, and/or fails to give adequate assurance of due performance, Seller may (a) by notice to Buyer, treat such failure or refusal as a repudiation by Buyer of the portion of the Order not then fully performed, whereupon Seller may cancel all further deliveries and any amounts unpaid hereunder shall immediately become due and payable; or (b) make shipments under reservation of a demand for advance payment or payment against tender of documents of title.
- Taxes.** Buyer is responsible for the payment of all taxes which may be assessed or levied on or on account of Products sold hereunder to Buyer, whether termed a gross receipts tax, use tax, property tax, sales tax or otherwise. Where Buyer claims that a transaction is not subject to any such tax, that Buyer is exempt, or that Seller is not required to collect such tax, Buyer agrees to provide Seller with any documentation necessary to support such a claim, to allow Seller to document its decision not to collect such taxes), and to indemnify and hold Seller harmless from and against any and all fines, penalties, interest, taxes, and other expenses, including, without limitation, reasonable attorney's fees, incurred by Seller as a result of reliance upon Buyer's position.

7. Tooling and Tools. The terms "Tooling" and "Tools" shall include all items such as moulds, dies, forms, jigs, mandrels, fixtures and other special equipment, except machinery, which are required to produce the Products. Tooling and/or setup charges may include the total tooling cost for tool usage and setup. All tools shall remain the property of Seller. Seller agrees to maintain such tools in good working order, normal wear and tear and damage by fire or other casualty accepted, during the performance of the Order, and thereafter, Seller will have the right to dispose of them at Seller's sole discretion. Buyer will be responsible for (a) costs resulting from alterations of tools requested by Buyer or alterations necessary to complete the order and (b) costs for additional tools or tooling incurred when Buyer requires faster delivery and/or greater volume of units than that for which the original tools were designed.

8. Intellectual Property Rights; Confidentiality.

- In all cases, the intellectual property rights in and to, and all technology relating to the Products supplied to Buyer, including but not limited to, their design and all improvements thereto shall be and remain the exclusive property of Seller.
- In connection with these Terms, each party may have access to or be exposed to information of the other party that is not generally known to the public, such as software, product plans, pricing, marketing and sales information, customer lists, "know-how," or trade secrets, which may be designated as confidential or which, under the circumstances surrounding disclosure, ought to be treated as confidential (collective, "Confidential Information"). Confidential Information may not be shared with third parties unless such disclosure is to the receiving party's personnel, including employees, agents and subcontractors, on a "need-to-know" basis in connection with these Terms, and such party has agreed to treat such Confidential Information under terms at least as restrictive as those herein. Each party agrees to take the necessary precautions to maintain the confidentiality of the other party's Confidential Information by using at least the same degree of care as such party employs with respect to its own Confidential Information of a similar nature, but in no case less than a commercially reasonable standard of care to maintain confidentiality. The foregoing shall not apply to information that (i) was known by one party prior to its receipt from the other or is or becomes public knowledge through no fault of the recipient; or (ii) is rightfully received by the recipient from a third party without a duty of confidentiality. If a recipient is required by a court or government agency to disclose Confidential Information, the recipient shall provide advance notice to the other party before making such a disclosure.

9. Warranty.

- Seller warrants that the Products as delivered shall, for 12 months from the date of shipment to the Buyer (the "Warranty Period"), be free from material defects in materials, workmanship and design (except to the extent that such Products comply with the detailed designs provided by the Buyer), shall be suitable for the intended purposes, if any, which are stated on the face of this Contract and shall substantially conform in all material respects to any applicable Product specification. b) For any material breach of the foregoing warranty, Seller shall, at its option, refund the purchase price, repair or replace the nonconforming Products, provided written notice of non-conformance is received by Seller within the Warranty Period. Nonconforming Products shall be, with Seller's prior written authorization, returned to Seller within the Warranty Period. Buyer shall bear at risk of loss or damage to returned Products while in transit. Seller reserves the right to examine any alleged non-conformance and perform a failure analysis to determine if the alleged non-conformance is a result of breach of the foregoing warranty. Upon verification by Seller that the Products do not conform to this warranty, Seller will reimburse Buyer for the cost of transporting the Products to Seller's manufacturing plant. The foregoing states Seller's sole and exclusive obligation and Buyer's sole and exclusive remedy for breach of the foregoing warranty. In the event no defect or breach of warranty is discovered by Seller upon receipt of returned Products, the Products will be returned to Buyer at Buyer's expense and Buyer will reimburse Seller for the transportation charge, labour, and associated charges incurred in testing the allegedly defective Products. These Terms apply to any repaired or replacement Products supplied by the Seller save that any repair or replacement provided to the Buyer will not extend the Warranty Period of the Products. Other than in the event of breach of the foregoing warranty, Products may not be returned to Seller.
- Except in the case of an authorized distributor of Seller that is authorized in writing by Seller to extend this warranty to distributors customers, the warranty under this Section 9 applies only to Buyer and not to any subsequent owner of a Product.
- Exclusions and limitations:

- The warranty excludes any equipment or accessories identified on the applicable price lists, offers, quotations, and/or special promotional materials as not being covered by this warranty. Included within this category are terms produced by third-party manufacturers.
- This warranty does not cover loss, damage, or defects resulting from: transportation to the Buyer's facility, improper or inadequate use conditions and/or maintenance by Buyer, Buyer-supplied software or interfacing, unauthorized modification or misuse, or operation outside of the environmental specifications for the Product.
 - No warranty is made with respect to used, reconstructed, refurbished or previously owned Products, which will be so marked and shall be sold "As Is".
 - The warranty herein applies only to Products within the country of original delivery. Products transferred outside the country of original delivery, either by Seller at the direction of Buyer or by Buyer's actions subsequent to delivery, may be subject to additional charges prior to warranty repair or replacement of such Products based on the actual location of such Products and Seller's warranty and/or service surcharges for such location(s).
- The Seller shall have no liability under the warranty in this clause 9 in any of the following events: (i) the defect arises because the Buyer failed to follow the Sellers oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products or if there are none good trade practice regarding the same; (ii) the defect arises as a result of the Seller following any drawing, design or specification supplied by the Buyer; (iii) the Buyer alters or repairs such Products without the written consent of the Seller; (iv) the defect arises as a result of far wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or (v) the Products differ from the description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

10. Limitation of liability. Nothing in this clause 10 shall limit or exclude the Sellers liability for: (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or (d) any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability. To the maximum extent permitted by applicable law, in no event shall Seller be liable to Buyer, or to any party claiming through or under Buyer, for any lost profits or for any indirect, special, incidental, exemplary, consequential or punitive damages of any kind, including use or inability to use any products by Buyer whether based on contract, tort, strict liability or otherwise, arising out of the design, manufacture, sale, delivery, installation, service or use of the products, even if Seller has been advised of the possibility of such damages. Seller's total cumulative liability is limited to the amounts paid by Buyer to Seller under the applicable Order for the Products giving rise to the limitation. No action shall be brought by Buyer more than one (1) year after the accrual of such cause of action. Buyer acknowledges that the foregoing limitations are an essential element of the agreement between the parties pursuant to these terms and that in the absence of such limitations the pricing and other terms set forth in these terms would be substantially different.

11. Patent Indemnity.

- Seller agrees to (i) defend Buyer from and against any suit or legal proceeding which may be brought against Buyer alleging infringement by Buyer of any valid, issued United Kingdom patent arising directly as a result of Buyers use of the Products sold hereunder for their intended purposes, and (ii) pay a damages finally awarded against Buyer by a court of competent jurisdiction and a reasonable legal fee assessed against Buyer in any such suit or legal proceeding, provided Buyer has complied with the conditions set forth in Section 11.1.
- Sellers indemnity obligations do not apply where the alleged infringement is the result of (i) additions or changes to or the Product made by Buyer or any third party; (ii) combination of the Products with third-party equipment, hardware, software or other materials or items; (iii) Sellers compliance with specifications furnished by Buyer; or (iv) Buyers continued use of the Products after delivery of notice by Seller to cease use of the Products (the "Excluded Activities").
- Buyer shall promptly notify Seller in writing of any claim for which it seeks indemnification hereunder. Seller shall have the right to solely control the defence (including any settlements) of any such claim. At Sellers request, Buyer will provide reasonable cooperation with respect to any defence or settlement.
- In the event that any portion of the Product is held or believed by Seller to infringe a valid, issued United Kingdom patent (such portion to be deemed the "Infringing Materials"), then Seller may, at its own expense and at its option: (i) procure for Buyer the right to continue using the Infringing Materials; (ii) modify the Infringing Materials to avoid and eliminate such infringement or misappropriation; (iii) replace the Infringing Materials with an equally satisfactory non-infringing product; or (iv) if none of the foregoing remedies is commercially feasible, remove the Infringing Materials and refund to Buyer the purchase price therefor less a reasonable amount for use, damage or obsolescence.
- This Section 11 contains Buyer's sole and exclusive remedy and Sellers entire liability, with respect to infringement, misappropriation, or violation of third party intellectual property rights relating to the Products.
- Buyer agrees to indemnify, defend, and hold Seller harmless from and against all liabilities, obligations, losses, damages, fines, claims, penalties, actions, suits, judgments, costs, expenses, and disbursements (including reasonable legal fees) arising from the Excluded Activities.

12. Authority to Export. Any or a Products may be subject to export or resale restrictions or regulation, and Buyer agrees to comply with all such regulations or restrictions and any other applicable laws and regulations regarding use of the Products. Prior to shipment of any Products, Buyer shall provide Seller with a documentation necessary for shipment to the destination country. Buyer shall indemnify and hold harmless Seller for any violation or alleged violation by Buyer of any such restrictions, regulations or applicable laws.

13. Termination. Without limiting its other rights or remedies, the Seller may terminate this Contract with immediate effect by giving written notice to the Buyer if: (a) the Buyer commits a material breach of any of these Terms and (if such a breach is remedied) fails to remedy that breach within 7 days of being notified in writing to do so; (b) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; (c) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on a or a substantial part of its business; or (d) the Buyers financial position deteriorates to such an extent that in the Sellers opinion the Buyers capability to adequately fulfill its obligations under the Contract has been placed in jeopardy. Without limiting its other rights or remedies, the Seller may suspend provision of the Products if the Buyer becomes subject to any of the events listed in this clause 14, or the Seller reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment. On termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Sellers outstanding unpaid invoices and interest. Termination of the Contract shall not affect any of the parties rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

14. General.

- Governing Law.** This Contract shall be governed by and construed in accordance with and all disputes arising under or related to this contract shall be resolved in accordance with the laws of England and Wales. The parties irrevocably agree that the courts of England and Wales have non-exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this contract or its subject matter or formation (including non-contractual disputes or claims).
- Assignment.** Buyer may not assign, transfer or delegate any of its rights or obligations herein without the prior written consent of Seller, and any purported assignment of such rights or obligations without such consent shall be null and void. These Terms shall be binding on any permitted successor or assign.
- Severability.** If any provision herein is deemed unenforceable, such provision will be changed to accomplish the objectives of such provision to the greatest extent possible under applicable law and the other provisions shall remain in full force and effect. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 14 shall not affect the validity and enforceability of the rest of this Contract.
- Survival.** Sections 3.2 (Buyer Cancellation), 5 (Prices; Payment; Credit Terms), 8.1 (Intellectual Property Rights), 8.3, c and d (Warranty); 10 (Disclaimer of Warranty); 11 (Limitation of Liability); 13 (Authority to Export) and 14 (General) of these Terms shall survive any termination or cancellation of an Order or return for refund of any Products. The parties obligations under Section 8.3 (Confidentiality) will survive for 3 years; provided, however, that Confidential Information that constitutes a trade secret will continue to be subject to the obligations of nondisclosure and non-use until such Confidential Information is no longer a trade secret by no wrongdoing of the receiving party or any third party.
- No Waiver.** No failure to or delay by a party in exercising any of its rights hereunder shall constitute or be deemed a waiver or forfeiture of such rights. All waivers must be in writing. Any waiver or failure to enforce any provision of this Contract on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- Relationship of the Parties.** Buyer's relationship to Seller is that of an independent contractor, and neither party is an agent, partner or employee of the other.
- Entire Contract.** This Contract constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, representations, promises, assurances, warranties and communication, whether written or oral. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Contract.
- These Terms may be amended only by a written document signed by both parties that specifically references these Terms.
- Sub-Contracting.** The Supplier is responsible for making the supply to the Buyer but may arrange to do so with the use of agents or subcontractors.
- Third party rights.** This Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. No person who is not party to this Contract shall have any right to enforce any term of this Contract.