

GDM COOLER MANUFACTURING LIMITED

GENERAL CONDITIONS OF SALE

1. DEFINITION

- i) 'Buyer' means the person who buys or agrees to buy the goods from GDM.
- ii) 'Conditions' means the Terms and Conditions of Sale set out in this document and any special Terms and Conditions agreed in writing by GDM.
- iv) 'Goods' means the articles which the buyer agrees to buy from GDM.
- v) 'Price' means the price for the Goods excluding carriage, packing, insurance and VAT.

2. ACCEPTANCE OF ORDERS

All orders for goods and for goods and services are subject to the following terms and conditions of sale unless otherwise varied by GDM in writing. It is hereby expressly agreed that the buyers terms and conditions of purchase shall not apply.

3. VARIATION OF SPECIFICATIONS

GDM has the right to vary specifications without notice.

4. SPECIAL SERVICES

Where special services such as modification(s) of standard equipments to comply with the Buyers specification, manufacture of customised equipment etc. are offered, all descriptive and technical specifications, drawings, illustrations and particulars of performance and dimensions, submitted with a quotation are approximate only and are to be treated as confidential.

5. DELIVERY

Delivery dates given by GDM are approximate ex-factory and it is expressly agreed that time is not of the essence.

6. DESPATCH

Unless otherwise agreed prices and quotations are ex-factory exclusive of carriage, GDM shall not be responsible for notifying (or making claims against) a carrier for breakage or damage but will render reasonable assistance in the pursuance of such claims.

7. THE PRICE AND PAYMENT

- i) The price is exclusive of VAT which shall be due at the rate of ruling on the date of GDM's invoice.
- ii) The price shall be GDM's quoted price (or subject to clause 7v) GDM's catalogue price list or advertisement.
- iii) Payment of the price and VAT (together with carriage, packing and insurance) shall be due within 30 days of the date of invoice. Time for payment shall be of the essence.
- iv) Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 4.5% above National Westminster Bank Plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgement.
- v) GDM has the right to vary (without notice) prices and terms and published or referred to in GDM's catalogue price list or advertisement.

8. WARRANTIES AND LIABILITY

GDM warrants that the goods will at the time of delivery correspond to the description given by GDM. Except where the buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977, Section 12) all other warranties, conditions or terms relating to fitness for purpose, merchantable or condition of the goods and whether implied by statute or common law or otherwise are excluded.

9. PARTICULARS OF PROPERTY AND RISK

- i) The goods shall be at the buyer's risk as from ex-factory/delivery.
- ii) In spite of delivery having been made property in the goods shall not pass from GDM until:
 - 1) the buyer shall have paid the price plus VAT in full: and
 - 2) no other sums whatever shall be due from the buyer to GDM
- iii) Until property in the goods passes to the buyer in accordance with clause 9 ii the buyer shall hold the goods and each of them on a fiduciary basis as bailee for GDM. The buyer shall store the goods (at no cost to GDM) separately from all other goods in its possession and marked in such a way that they are clearly identified as GDM's property.
- iv) Notwithstanding that the goods (or any of them) remain the property of GDM the buyer may sell or use the goods in the ordinary course of the buyer's business at full market value for the account of GDM.
- v) GDM shall be entitled to recover the price (plus VAT) notwithstanding that the property in any of the goods has not passed from GDM.
- vi) Until such time as property in the goods passes from GDM the buyer shall upon request deliver up such of the goods as have not ceased to be in existence or resold to GDM. If the buyer fails to do so GDM may enter upon any premises owned occupied or controlled by the buyer where the goods are situated and repossess the goods. On the making of such request the rights of the buyer under clause 9 iv shall cease.
- vii) The buyer shall not pledge or in any way charge by way of security for any indebtedness any of the goods which are the property of GDM. Without prejudice to the other rights of GDM, if the buyer does so all sums whatever owing by the buyer to GDM shall forthwith become due and payable.
- viii) The buyer shall insure and keep insured the goods to the full price against 'all risks' to the reasonable satisfaction of GDM until the date that the property in the goods passes from GDM, and shall whenever requested by GDM produce a copy of the policy of insurance. Without prejudice to the other rights of GDM, if the buyer fails to do so all sums whatever owing by the buyer to GDM shall forthwith become due and payable.

10. CLAIMS FOR DEFECTS, DAMAGE, LOSS OR NON-DELIVERY

- i) The buyer shall inspect the goods on delivery and shall within 24 hours of delivery notify GDM of any alleged defect, shortage in quantity, damage or failure to comply with description or sample. The buyer shall afford GDM within a reasonable time following delivery and before any use is made of them. If the buyer shall be conclusively presumed to be in accordance with the contract and free from any defect of damage which would be apparent on a reasonable examination of the goods and the buyer shall be deemed to have accepted the goods and shall not be entitled to reject the goods.
- ii) The buyer shall notify GDM of any non-delivery of a whole consignment of complete cartons within 14 days of the date of despatch (as stated on the invoice). Notwithstanding the receipt by GDM of any such notice a clear signature on a carrier's delivery advice sheet shall be deemed to signify receipt of the quantity of cartons indicated on the advice sheet.
- iii) If the goods are not in accordance with the contract for any reason the buyer's sole remedy shall be limited to GDM, making good any shortage by replacing such goods or, if GDM shall elect, by refunding a proportionate part of the price.
- iv) GDM's liability to the buyer, whether for any breach of contract or otherwise, shall not in any event exceed the price and GDM shall be under no liability for any direct loss and/or expense or indirect loss and/or expense suffered by the buyer of liability to third parties incurred by the buyer.
- v) All warranties and conditions whether implied by statute or otherwise are excluded from this contract provided that nothing in this contract shall restrict or exclude liability for death or personal injury caused by the negligence of GDM or affect the statutory rights of a buyer dealing as consumer.

11. PROPER LAW OF CONTRACT

These conditions and the Contract shall be governed by and construed in accordance with the Laws of England and Wales and the Client agrees to submit to the no exclusive jurisdiction of the English courts.