

TERMS AND CONDITIONS OF SALE

All orders accepted by the Company are subject to the following conditions and no variation shall be binding on the Company unless in writing signed by an officer of the company.

1. DEFINITIONS

- 1.1 (a) 'Company' means Zapkut Limited.
- (b) 'Conditions' means the standard terms and conditions set out in this document.
- (c) 'Order' means the order hereby accepted by the Company
- (d) 'Goods' means any goods supplied by the Company in accordance with the conditions.
- (e) 'Buyer' means the party placing the order

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

1.3 **SEVERANCE** Any provision of this contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed to be separable and shall not affect any other provision of this contract

2. **LAW** These conditions and the contract which they govern are subject to English Law.

3. BASIS OF THE SALE

3.1 A contract between the Company and the Buyer for the Goods shall only be formed when an order is received from the Buyer offering to purchase the Goods subject to the conditions herein set out and the Company shall have signed and dispatched to the Buyer an acceptance in the form of an order confirmation (as set out overleaf).

3.2 Once a contract comes into being as referred to in clause 3.1 the Company shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Company which is accepted by the Buyer or any written order of the Buyer which is accepted by the Company subject to these conditions which shall govern the contract to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made by the Buyer.

3.3 No variation to these conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Company.

3.4 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in writing. In entering into the contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations not confirmed.

3.5 Any advice or recommendation given by the Company or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Company 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.

4. ORDERS AND SPECIFICATIONS

4.1 No order submitted by the Buyer shall be deemed to be accepted by the Company unless confirmed in writing by the Company's authorised representative in accordance with clause 3.1.

4.2 The Buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order including any applicable specifications submitted by the Buyer, and for giving the Company any necessary information relating to the goods within a sufficient time to enable the Company to perform the contract in accordance with its terms.

4.3 The quantity, quality and description of and any specification for the goods shall be those set out in the Buyer's order if accepted by the Seller.

4.4 If the goods are to be manufactured or any process is to be applied to the goods by the Company in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Company against all loss, 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 industrial or intellectual property rights of any other person which results from the Company's use of the Buyer's specification.

4.5 The Company reserves the right to make any changes in the specification of the goods which are required to conform with any applicable safety or other statutory requirements or, where the goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.

4.6 No order which has been accepted by the company may be cancelled by the Buyer except with the agreement in writing of the Company and on terms that the Buyer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour, transport and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

4.7 The Company reserves the right to make changes and improvements to the goods without incurring any obligation to similarly alter goods previously manufactured.

5. **DELIVERY** The Company will use all reasonable endeavours to keep to agreed delivery dates which are quoted on the basis of existing commitments but will not be liable for delay in delivery however caused. The time of delivery shall not be of the essence.

6. **TERMS OF PAYMENT** Terms of payment are as specified on the Company's quotation. The Buyer shall pay all reasonable legal expenses incurred by the Company for the collection of any overdue accounts whether court proceedings are issued or not, and if payment is not made on the due date as specified in the Company's quotation then interest will be charged at a rate of 4% per annum over the base rate of HSBC Bank plc for the time being. For credit payment, payment of the price for the goods and VAT shall be due within 30 days from the date of the invoice and interest becomes payable from the date the invoice is due.

7. RESERVATION OF TITLE

(a) Any goods delivered by the Company to or to the order of the Buyer shall remain the property of Company until all sums due to the Company from the Buyer, whether in respect of such delivered goods or otherwise have been paid in full. In the event that the Buyer sells such delivered goods in the ordinary course of its business, the Buyer shall sell such goods as principal and shall hold upon trust for the Company such part of the proceeds of sale as may be required to satisfy all sums due to the Company as aforesaid together with any interest payable thereon and the Buyer shall not mix such sums with any other money or pay them into any overdrawn bank account and shall be at all material times identified as the Company's money and the Buyer shall keep a separate account of such sums, allowing the Company the right to inspect such accounts, bank accounts or otherwise and the rights to trace such proceeds according to established equitable principles.

(b) The provisions of sub-clause (a) hereof shall continue to apply notwithstanding that such delivered goods may have been used in the manufacture of any article that may have become combined with other material of any other nature. In the case of a sale by the Buyer of such delivered goods which have been used in the manufacture of any article or have become combined with other material 'the proceeds of sale' for the purpose of sub-clause (a) hereof shall mean that part of the proceeds of sale of the article of the combined material as if referable to the delivered goods contained therein.

(c) Until the property therein has passed to the Buyer, all such goods in the Buyer's possession whether or not combined with any other material and whether or not incorporated into any manufactured article shall be stored protected and insured and so marked or labelled by the Buyer as to be clearly shown to contain the property of the Company.

(d) The Buyer hereby grants a licence to the Company and persons authorised by the Company together with such removals vehicles and machinery as may be necessary to enter upon the premises of the Buyer at all reasonable times to remove any item or items therein manufactured or sold by the Company in lieu of payment that is vested in the Buyer or any purchaser from the Buyer shall immediately be vested in the Company upon such removal.

(e) The Buyer shall not be entitled to pledge or in any way charge by way of security any of the goods which remain the property of the Company but if the Buyer does so all monies owing by the Buyer to the Company shall (without prejudice to any other right or remedy of the Company) become due and payable.

(f) Reference in 7(a) to the Buyer holding sale proceeds on trust for the Company shall include extending the trust obligation to the directors if the Buyers is a limited company, the partners if the Buyer is a partnership, the proprietor if the Buyer is a sole trader or the trustees, governors or members if the Buyer is an unincorporated association or organisation.

8. **RISK** The risk in the goods shall pass to the Buyer at the time of delivery or if the Buyer fails to take delivery then at the time when the Company has tendered delivery of the goods.

9. WARRANTIES AND LIABILITY

9.1 Subject to the conditions below, the Company warrants that the goods will be in conformance with their specifications (at the time of purchase) for a period of 12 months from shipment ('Warranty Period'). The Buyer must inform the Company within 14 days from the date the defect is detected or the date the defect should have reasonably been detected.

9.2 (a) The Company shall not be liable for consequential or indirect loss or damage, loss of profits' revenues, the Buyers material, labour time, machine downtime or other loss or damage howsoever arising, except in respect of death or personal injury directly arising from the Company's negligence, out of any breach of condition, representation, warranty, contract or tort on the part of the Company in respect of the goods. The Company's maximum liability is as stated in 9.6 below.

(b) The Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the goods without the Company's approval.

(c) The Company shall be under no liability under the above warranty if the total price of the goods has not been paid by the due date for payment.

(d) Parts warranted by other manufacturers will be warranted by the Company to the extent of the warranty given by the relevant manufacturer

(e) Bearings, motors, heaters, collets and drive belts are not covered under this warranty.

(f) The above warranty is limited to the replacement or repair of defective component parts however the Buyer shall be responsible for the fitting or installation of such replacement or repaired component parts (at the Buyers expense) All warranty repairs and or replacements shall be FOB the Company and will be contingent on return of defective parts to the Company freight prepaid.

9.3 Subject as expressly provided in these conditions and except where the goods are sold under a consumer sale (as defined by the Sale of Goods Act 1979) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.4 Where the goods are sold under a consumer sale (as defined by the Sale of Goods Act 1979) the statutory rights of the Buyer are not affected by these conditions.

9.5 If delivery is not refused and the Buyer does not notify the Company in accordance with 9.1, the Buyer shall not be entitled to reject the goods and the Company shall have no liability for any defect or failure and the Buyer shall be bound to pay the price as if the goods had been delivered in accordance with this contract.

9.6 (a) Where any valid claim in respect of any of the goods which is based on any defect in the quality or condition of the goods or their failure to meet specifications is notified to the Company in accordance with these conditions, the Company shall be entitled to replace the goods (or the part in question) free of charge or at the Company's sole discretion refund to the Buyer the price of the goods (or proportionate part of the price) but the Company shall have no further liability to the Buyer.

(b) The Buyer shall allow the Company or its representative access to its premises in order to remedy any defect in the goods which is subject to a valid warranty claim by the Buyer or where requested by the Company the Buyer shall transport the defective goods to the Company (to such address as may be notified to the Buyer).

10. **SUITABILITY** The Buyer assumes responsibility for the goods being the necessary sizes and reasonably suitable for the purpose for which they are entitled.

11. **DAMAGE** No claim for damage or shortages will be entertained unless pointed out at the time of delivery and written confirmation is received within 14 days.

12. **ERRORS** Any clerical errors or omissions contained in the Company quotation, acknowledgement, invoice or otherwise shall be rectified by the Company on discovery and immediately notified to the Buyer; such errors or omissions shall not be binding on the Company and rectification thereof shall not invalidate the contract.

13. **VARIATIONS** Products and prices are subject to change without notice.

14. **STORAGE** If any of the goods are ready for delivery but are held back at the Buyer's request or if the Buyer fails to accept delivery, the Company may require the Buyer to pay reasonable storage charges (as determined by the Company) after the expiry of 7 days from the date of the Buyer being notified that the goods are ready for despatch.

15. **RE-STOCKING** Should the Buyer be unable to sell the goods to any of their customers the Company in its absolute discretion may agree to purchase the goods back from the Buyer subject to the Buyer paying a re-stocking charge of 25% of the total invoice value of the goods when sold from the Company to the Buyer

16. INSOLVENCY OF BUYER

16.1 This clause applies if:

(a) The Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or

(b) an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Buyer, or

(c) the Buyer ceases or threatens to cease to carry on business, or

(d) the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

16.2 If this clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the order or suspend any further deliveries under the order without any liability to the Buyer and if goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous arrangement or arrangement to the contrary and the Company shall be granted a licence to remove the goods from the Buyer's premises forthwith.