

CRASTER LTD - TERMS AND CONDITIONS OF BUSINESS

1. Interpretation

The definitions in this clause apply in these terms and conditions:

Bespoke Goods: Goods designed and/or manufactured by Craster to the Customer's specific requirements.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document.

Confidential Information: all information in whatever form (including without limitation, whether written, oral, visual, electronic, on tape or disk or in any other form) relating to the business carried on by either party, that is directly or indirectly disclosed to by one party to the other or which comes to the attention of either party in connection with the Contract, whether before or after the date of this Contract and including, without limitation, customer and supplier details, product designs and business plans.

Contract: the contract between Craster and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Craster: Craster Limited (registered in England and Wales with company no. 4503732).

Customer: the person or firm who purchases the Goods from Craster.

Delivery Location: the location set out in the Order or such other location as the parties may agree In Writing.

Force Majeure Event: has the meaning given in clause 9.2.

Goods: the goods (or any part of them) set out in the Order.

In Writing: in writing in a letter, in a fax or in an email but excludes telephone conversations, SMS messages and communications made through social networking platforms.

Order: the Customer's order for the Goods, as set out in Craster's purchase order form.

Order Confirmation: Craster's confirmation of the Order.

Specification: any specification for the Goods, including any related plan and drawings, that is agreed In Writing by the parties.

Stock Goods: Goods that are not Bespoke Goods.

2. Basis of Contract

2.1. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2. The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer shall ensure that the terms of the Order and any relevant Specification are complete, accurate and consistent with the Conditions. If there is any discrepancy or conflict between the Order, the Specification (if any) and/or the Conditions, the Conditions shall prevail.

2.3. A quotation for the Goods given by Craster (i) shall not constitute an offer and (ii) shall only be valid for a period of 30 days from its date of issue.

2.4. The Order shall only be deemed to be accepted when Craster issues the Order Confirmation to the Customer, at which point the Contract shall come into existence.

2.5. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Craster which is not set out in the Contract. Any samples, drawings, descriptive matter, or advertising issued by Craster and any descriptions or illustrations contained in Craster's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or any other contract between Craster and the Customer for the sale of the Goods.

3. Delivery

3.1. Craster shall deliver the Goods to the Delivery

Location after Craster notifies the Customer that the Goods are ready and at a date/time stipulated by Craster. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.

3.2. Subject to clause 5 below, delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location and the Customer shall make all arrangements necessary to take delivery of the Goods.

3.3. Craster shall not be liable for any failure to deliver the Goods or for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Craster with adequate delivery instructions or any other instructions that are relevant to the supply and/or delivery of the Goods.

3.4. If the Customer fails to take delivery of the Goods within 5 Business Days of Craster notifying the Customer that the Goods are ready then, except where such failure or delay is caused by a Force Majeure Event:

- delivery of the Goods at the Customer's risk shall be deemed to have been completed at 9.00 am on the fifth Business Day following the day on which Craster notified the Customer that the Goods were ready; and
- Craster shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

3.5. If 10 Business Days after Craster notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, Craster may resell or otherwise dispose of part or all of the Goods at its discretion, in which case no refund of any sums paid to Craster shall be recoverable by the Customer and any sums due from the Customer under sub-clause 3.4(b) remain due from the Customer.

3.6. Craster may deliver the Goods by instalments which, unless otherwise agreed, shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

3.7. Where the Delivery Location is outside of the United Kingdom, the Customer is responsible for obtaining, at its own cost, such import licences and other consents in relation to the Goods as are required from time to time and, if required by Craster, the Customer shall make those licences and consents available to Craster prior to (and as a condition of) despatch.

4. Quality

4.1. Craster warrants that on delivery (or deemed delivery) the Goods shall:

- conform in all material respects with their description and any applicable Specification;
- be free from material defects in design, material and workmanship.

4.2. Subject to clause 4.3, if:

- the Customer gives notice In Writing to Craster within 5 Business Days of delivery (or deemed delivery) that some or all of the Goods do not comply with the warranty set out in clause 4.1; and
- Craster is given a reasonable opportunity of examining such Goods; and
- the Customer (if requested by Craster) returns such Goods to Craster's place of business at the Customer's cost,

Craster shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full. These Conditions shall apply to any repaired or replacement Goods supplied by Craster.

4.3. Craster shall not be liable for Goods' failure to comply with the warranty set out in clause

4.1 if:

- the Customer makes any further use of such Goods after giving notice in accordance with clause 4.2; or
- the defect arises because the Customer failed to follow Craster's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice; or
- the defect arises as a result of Craster following any drawing, design or specification supplied by the Customer; or
- the Customer alters or repairs such Goods without the written consent of Craster; or

(e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

4.4. Except as provided in this clause 4, Craster shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.

4.5. Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

5. Title & Risk

5.1. The risk in the Goods shall pass to the Customer on the earlier of completion of delivery under clause 3.2 above and deemed delivery under clause 3.4 above.

5.2. Title to the Goods shall not pass to the Customer until Craster has received payment in full (in cash or cleared funds) for:

- the Goods; and
- all other sums which are or which become due to Craster for or in connection with the sale, supply, storage and/or delivery of the Goods to the Customer.

5.3. Where the Goods have been delivered to the Delivery Location then, until title to the Goods has passed to the Customer, the Customer shall:

- store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Craster's property;
- not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- notify Craster immediately if it becomes subject to any of the events listed in clause 7.2; and
- give Craster such information relating to the Goods as Craster may require from time to time.

5.4. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 7.2, or Craster reasonably believes that any such event is about to happen and notifies the Customer accordingly then, without limiting any other right or remedy Craster may have, Craster may require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

6. Price & Payment

6.1. The price of the Goods shall be the price set out in the Order[, or, if no price is quoted, the price set out in Craster's published price list in force as at the date of delivery].

6.2. Craster may, by giving notice to the Customer at any time up to 5 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- any factor beyond Craster's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- any delay caused by any instructions of the Customer or failure of the Customer to give Craster adequate or accurate information or instructions.

6.3. The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be paid by the Customer when it pays for the Goods.

6.4. The price of the Goods is exclusive of amounts in respect of value added tax (VAT), any similar sales tax or any excise or customs duties or other taxes, fees or surcharges (including withholding taxes) relating to the sale and supply of the Goods to the Customer (taxes). The Customer shall pay all such taxes, including those paid or payable by Craster, upon receipt of a valid invoice for the same.

6.5. Craster may invoice the Customer for the Goods on or at any time after the completion of delivery or otherwise in accordance with the payment schedule/

arrangements set out in the Order Confirmation . The Customer shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice. Payment shall be made to the bank account nominated In Writing by Craster. Time of payment is of the essence.

6.6. If the Customer fails to make any payment due to Craster under the Contract by the due date for payment (due date), then the Customer shall pay interest on the overdue amount in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

6.7. The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Craster in order to justify withholding payment of any such amount in whole or in part. Craster may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Craster to the Customer.

6.8. Notwithstanding clause 4, above, Craster may, at its sole discretion, allow the the Customer to return stock goods within 10 Business Days of taking delivery of any Stock Goods, provided that:

- (a) the Goods are returned to Craster at the Customer's sole cost and expense (including payment for the Goods to be insured in transit and until completion of unloading at the return location) and in strict accordance with any instructions issued by or on behalf of Craster; and
- (b) Craster determines at its discretion that the Goods when received by Craster have not been used or tampered with in any way (and show no signs of such) and are otherwise in a good state of repair and of merchantable (and resalable) quality; and
- (c) prior to the Goods being despatched to Craster, Craster is in receipt of (in cleared funds) 30% of the price of the Goods and has confirmed the same In Writing to the Customer (and Craster shall refund to the Customer any amount of the price of the Goods received by Craster over this percentage, less a reasonable administration charge).

For the avoidance of doubt, this clause 6.8 only applies to Stock Goods and does not apply to Bespoke Goods .

7. Customer's Insolvency

7.1. If the Customer becomes subject to any of the events listed in clause 7.2, or Craster reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly then, without limiting any other right or remedy available to Craster, Craster may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and Craster without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due.

7.2. For the purposes of clause 7.1, the relevant events are:

- (a) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; or
- (b) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (c) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- (d) a creditor of the Customer attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- (e) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer; or
- (f) a person becomes entitled to appoint (or has appointed) a receiver over any of the assets of the Customer; or

- (g) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this clause 7.2.

8. Limitation of Liability

8.1. Nothing in these Conditions shall limit or exclude Craster's 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; or
- (c) any matter in respect of which it would be unlawful for Craster to exclude or restrict liability.

8.2. Subject to clause 8.1:

- (a) Craster shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) Craster's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the price of the Goods.

9. Force Majeure

9.1. Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event (whether, in the case of Craster, affecting Craster or its sub-contractors).

9.2. A Force Majeure Event means any event beyond a party's reasonable control including strikes, lock-outs or other industrial disputes, failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

10. Confidentiality

10.1. Each party shall procure that they, their employees, contractors and agents shall:

- (a) keep all Confidential Information belonging to the other party secret;
- (b) use the Confidential Information of the other party solely for the purposes of the Contract and not in any way which is or may be detrimental to the interests of the other;
- (c) not directly or indirectly disclose any Confidential Information belonging to the other party in whole or in part to any person (or allow it to be disclosed) or make copies of it unless permitted by the Contract;
- (d) use all reasonable endeavours to ensure that no one discovers the Confidential Information belonging to the other party unless authorised; and
- (e) inform the other party immediately upon becoming aware or suspecting that an unauthorised person has become aware of Confidential Information.

10.2. The obligation to maintain the confidentiality of the Confidential Information does not extend to nor apply to Confidential Information which:

- (a) at the time of disclosure is or subsequently becomes public knowledge, other than as a direct or indirect result of an unauthorised disclosure or other act or omission by either party;
- (b) either party can establish to the reasonable satisfaction of the other that it found out the information from a source not connected with the other and that the source is not under any obligation of confidence in respect of the information;
- (c) either party is compelled to disclose by law or the requirements of any regulatory or other authority with which either party is required to comply; or
- (d) both parties agree In Writing that it is not confidential.

10.3. Both parties may disclose Confidential Information only to:

- (a) its respective directors, officers or employees as are

- strictly necessary for the purposes of the Contract;
- (b) its directors, partners or employees respective professional advisers or consultants who are engaged to advise in connection with the Contract; or
- (c) people whom the other agrees in writing may receive the information.

11. General

11.1. Intellectual Property. All intellectual property rights of whatever nature and wherever arising (including copyright and design right, whether registrable or unregistrable, and all related rights of action) in the Goods (and the Specification) shall (as between the Customer and Craster) belong to Craster. The Customer hereby assigns to Craster all such intellectual property rights that may become vested in it and undertakes at its own cost to do such further acts (including the execution of any documents) to complete and/or confirm Craster's title to such rights. Nothing in this Contract shall be construed as conferring any licence or granting any rights in favour of the Customer in relation to such intellectual property rights.

11.2. Assignment and subcontracting. Craster may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Craster.

11.3. Notices. Any notice or other communication given to a party under or in connection with the Contract shall be In Writing, addressed to that party at its registered office or such other address as that party may have specified In Writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery or fax. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to herein; if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; or, if sent by fax, 1 Business Day after transmission.

11.4. Severance. If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

11.5. Waiver. A waiver of any right or remedy under the Contract is only effective if given In Writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

11.6. Third Party Rights. A person who is not a party to the Contract shall not have any rights under or in connection with it.

11.7. Variations. Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed In Writing and signed by the parties.

11.8. Governing Law and Jurisdiction. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law. Any such dispute or claim shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (LCIA), and such Rules are deemed to be incorporated by reference into this clause. Unless otherwise agreed by Craster, the number of arbitrators shall be one and the seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English.