

Terms and Conditions

Zenga Oxford Limited

Business Mechanisms to Accelerate Change



Sales Terms and Conditions

TERMS AND CONDITIONS OF SALE – BUSINESS CUSTOMERS ONLY

Definitions

- 1.1 'Buyer' - the person, acting in the course of a business, buying Goods from Seller.
- 1.2 'Seller' – Zenga Oxford Limited. and its successors.
- 1.3 'Goods' - all goods and materials which are the subject of an Order or which, otherwise are supplied to Buyer by Seller under these Conditions of Sale.
- 1.4 'Contract' - the contract between Seller and Buyer for the sale and purchase Goods incorporating the Conditions of Sale.
- 1.5 'Writing' - includes electronic and non-electronic communication and text communicated through the Website.
- 1.6 'Website' - www.zengaoxford.com and any up-dated version thereof.
- 1.7 'Conditions of Sale' - these terms and conditions of sale and (unless the context otherwise requires) any, specification of Goods and any special terms agreed in Writing between Buyer and Seller.
- 1.8 'Order' – an offer from Buyer, communicated in Writing (or confirmed in Writing), to Seller in which Buyer offers to buy Goods. Each Order must have a valid order number issued by Buyer.

Formation of Contract

- 2.1 Each Order shall be an offer to create a Contract to purchase Goods subject to these Conditions of Sale. A Contract forms in respect of an Order only when Seller accepts it. Orders through the Website shall be treated the same as Orders made in other ways.
- 2.2 All verbal Orders must be confirmed in Writing by Buyer within the seven (7) days after the date of the verbal Order.

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2.3 The Conditions of Sale constitute the entire Contract and, unless expressly agreed in Writing by Seller's Managing Director, no other terms or conditions shall form part of the Contract.

2.4 Buyer has not relied on any statement, promise, representation, warranty, condition or term, Written or oral, express or implied, other than those contained in the Conditions of Sale.

2.5 Buyer shall ensure the terms of its Order are complete and accurate.

2.6 Seller shall try to perform each Contract within any time specifically agreed or, if no such time is agreed, within a reasonable time. However, time shall not be of the essence of any Contract unless expressly agreed.

Prices

3.1 Unless otherwise expressly agreed, Goods shall be sold and invoiced at Seller's prices in effect at the time of shipment.

3.2 Website prices for Goods are indicative only and may not represent the prevailing prices on any particular day.

3.3 VAT and any other sales or delivery taxes and, all costs and charges in relation to packaging, loading, unloading, carriage and insurance shall be added to the price of the Goods and shall be paid by Buyer.

Payments

4.1 Payment shall be made in the currency shown on our invoice on the dates specified in the Contract and, in any event, within the thirty (30) days after the date of Seller's invoice.

4.2 If Buyer purchases Goods from the Website, payment may be made by credit card or debit card via a secure site, in the currency agreed between Buyer and Seller. In such cases, Seller will not charge the card until an invoice for the Order has been raised.

4.3 Without prejudice to Seller's other rights, including the right in any event to sue for the price immediately payment becomes due, whether or not property in Goods has passed, Seller reserves the right to charge interest on delayed payments at the annual rate of three per cent (3%) above the base rate of the Royal Bank of Scotland PLC from time to time in force to be pro-rated on a day-to-

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day basis until the receipt of payment in full whether before or after any judgement.

4.4 Buyer shall not withhold payment of any amount due under a Contract in respect of any disputed claim for damage to Goods or in respect of any other alleged breach of Contract by Seller. Buyer cannot set-off any monies due from Seller against any amount due or payable by Buyer under a Contract, or otherwise.

4.5 Seller may cancel a Contract if Buyer suffers any distress or execution to be levied on its goods; or if it makes any arrangement with its creditors; or goes into liquidation, whether compulsory or voluntary; or has a receiver appointed of any of its property or assets; or if Buyer, being an individual, shall commit an act of bankruptcy or have a receiving order made against it.

4.6 If any payment is not made when due, Seller may suspend further deliveries under this, or any other, Contract with Buyer and may cancel this Contract in whole or in part without prejudice to Seller's other rights, and without incurring any liability to Buyer.

Delivery

5.1 Unless otherwise stated in Seller's quotation or acceptance of Order, Seller shall arrange delivery of Goods to Buyer's premises or other delivery point indicated in the Contract and shall insure Goods to the point of delivery.

5.2 Seller shall not be liable to Buyer for any loss or damage, whether direct, indirect or consequential, if delivery of Goods is delayed or prevented or if Seller is delayed or prevented in performing its obligations under the Contract because of act of God, natural disasters, fire, flood, explosion or earthquake, accidents, prohibition or limitation of exports or imports, any act of Government, war (declared or not), insurrections, riots, acts of terrorism, strikes or labour disturbances (whether at Seller's works or elsewhere), shortages of materials or any other cause or event whatsoever beyond the reasonable control of Seller ("Force Majeure").

5.3 If Force Majeure occurs, Seller may, at its option, suspend performance or cancel the Contract (or so much of it as remains unperformed) without liability for any loss or damage suffered or incurred by Buyer as a result; and, without prejudice to Seller's rights to receive payment of the price for all Goods previously delivered, or Services already provided (including design work).

5.4 Seller may make delivery by installments. Failure by Buyer to accept or pay for any installment allows Seller to repudiation of the Contract.

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5.5 Buyer will be responsible for, and at his own expense provide, all the necessary labour and machinery to off-load Goods on arrival at the delivery address.

5.6 No claim for short delivery or damage to Goods may be made unless notified to Seller, by registered letter within the five (5) working days after delivery.

5.7 Claims for non-delivery must be made within the 28 days after the dispatch date of Goods.

Cancellation

6.1 An Order cannot be cancelled after a Contract has formed unless Seller expressly agrees to that in Writing.

6.2 Any notice of cancellation must be sent either by post or by email to Seller's registered office.

6.3 Upon Seller's receipt of a valid notice to cancel, Seller shall repay all sums already paid by Buyer, less any charges due under Clause 6.4, within 30 days after the valid notice of cancellation is received.

6.4 Seller may make a charge to Buyer if Buyer cancels a Contract but does not comply with the cancellation provisions, or returns the Goods at Seller's expense.

6.5 Where an Order is cancelled and Buyer is already in possession of Goods, Buyer must retain possession of such Goods and take reasonable care of them, until such Goods are returned to Seller.

6.6 On cancellation, Buyer shall return Goods to Seller at Buyer's expense.

Risk

7.1 Unless otherwise agreed by Seller in Writing, risk passes on delivery.

Reservation of title

8.1 Unless otherwise agreed in Writing by Seller, until all payments due under a Contract have been paid in full, together with all interest and all other sums due from Buyer ("Payment"), Goods shall remain the property of Seller, and Buyer shall store Goods in such a way that they are or can be

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identified as the property of Seller and Seller shall not dispose of them without Seller's prior consent in Writing.

8.2 If Buyer sells or otherwise disposes, or makes any insurance claim in respect, of Goods before Payment has been made in full, Buyer shall not give any warranties or incur any liability on behalf of Seller; and, proceeds of any such sale or other disposition (or claim thereto) and any such insurance proceeds (or claim thereto) shall belong to Seller and be held by Buyer as trust funds to the extent of all sums due from Buyer to Seller.

8.3 If Goods are used as a component in the production of other goods or as a part of a mixture of other goods then such other goods shall belong to Seller and shall be stored so as to be identified as such and the proceeds of sale or other disposal of such goods shall belong to Seller to the extent of all sums due from Buyer to Seller.

8.4 Failure on the part of Buyer promptly to pay any interest due under a Contract allows Seller (without prejudice to other remedies) to repossess Goods with or without prior notice and to enter any premises in which Goods may be, for the purpose of repossession.

8.5 Nothing in this Clause 8 gives Buyer the right to return Goods in whole or in part when Payment becomes due under a Contract. Seller may sue Buyer for such Payment, notwithstanding any other provisions of this Clause 8.

Insurance

9.1 From the time at which risk passes under the Contract until full and final payment is made, Buyer shall keep Goods comprehensively insured to their full replacement value (new for old) against all risks including, but not limited to, damage in shipment, naming Seller as an additional insured.

Warranties

10.1 Seller warrants that, on delivery, Goods will be free from defects in design, materials and workmanship ("Defects").

10.2 Buyer shall make a full inspection of Goods immediately upon delivery and, in any event, within the seven (7) days after delivery and shall notify Seller within the next following three (3) days of any Defects which are discovered. Buyer shall also have deemed knowledge of any and all Defects

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which should have been discovered during a reasonable inspection of Goods under this Clause 10.2.

10.3 Defects that were not discovered (or deemed so) during the inspection under Clause 10.2 are "Latent Defects". Latent Defects shall be reported to Seller within the three (3) months after Goods are first put into use or within the six (6) months after their delivery date, whichever first occurs.

10.4 Provided Buyer has complied with Clause 10.2 (for Defects) and 10.3 (for Latent Defects), Seller shall, at its sole option, repair or replace Goods (or parts thereof) which contain Defects or Latent Defects (as the case may be).

10.5 Goods containing Defects or Latent Defects shall be returned to Seller's designated factory, carriage prepaid. Seller shall have no liability under this warranty for any costs other than those of repair or replacement as specified in this Clause 10, nor shall Seller be liable for any labour charges involved in removal or replacement of the defective Goods or parts thereof.

10.6 There are no warranties, express or implied, of merchantability or of fitness for a particular purpose, or of any other kind, except those made in Clause 10.1. In particular, and to the extent permissible by law, all conditions and warranties which would otherwise be implied by statute or under the common law are excluded.

10.7 In no event shall Seller's liability to Buyer in connection with Defects and Latent Defects exceed the price paid for Goods which suffer the Defects or Latent Defects.

10.8 **UNDER NO CIRCUMSTANCES WHATSOEVER SHALL SELLER BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFIT, LOSS OF USE OR LOSS OF BARGAIN, SUFFERED OR INCURRED BY BUYER OR ANY THIRD PARTY IN CONNECTION, DIRECTLY OR INDIRECTLY, WITH GOODS OR ANY CONTRACT OR FROM ANY OTHER CAUSE WHATSOEVER, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF POTENTIAL LOSS.**

10.9 Seller does not warrant that its Website, its servers, or e-mails are free of viruses or other harmful components. Seller will not be liable for any damages of any kind arising from the use of its Website, including, but not limited to direct, indirect, incidental, punitive, and consequential damages.

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10.10 UNDER NO CIRCUMSTANCES WHATSOEVER SHALL SELLER'S LIABILITY IN CONNECTION, DIRECTLY OR INDIRECTLY, WITH ANY CONTRACT EXCEED THE TOTAL AMOUNT PAID BY BUYER TO SELLER FOR THE GOODS WHICH ARE THE SUBJECT OF THE CONTRACT IN CONNECTION WITH WHICH THE LIABILITY ARISES.

Non Disclosure of Personal Data & Communications

11.1 Seller shall only use the information that Buyer provides when using Website to process Buyer's Orders and, except for that purpose, Seller shall not show such information to any third party. Any email address that is given to Seller by Buyer shall not be used otherwise than in connection with Orders.

11.2 Buyer consents to receive communications from Seller electronically.

Patents & Copyright

12.1 Any design or instruction given by Buyer shall not be such as will cause Seller to infringe any letters patent, copyright, registered design, trademark or other third party intellectual property rights ("IP Rights") in the execution of the Contract. Buyer will indemnify Seller against all damages, penalties, costs and expenses for which Seller becomes liable in connection with IP Rights.

12.2 All plans, documents, drawings and specifications supplied by Seller are protected by copyright and may not be disclosed to third parties, other than the ultimate user of Goods; or, be reproduced, without Seller's consent in Writing.

12.3 The Website, its contents and software are the property of Seller or its suppliers and protected by English and international copyright laws. The compilation of all content on the Website is the exclusive property of Seller and protected by English copyright laws.

Buyer's Account

13.1 Buyer shall maintain the confidentiality of its account and password and restrict access to its computers and has responsibility for all activities that occur under its account or password.

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Taxes

14.1 Buyer shall promptly pay, when due, all taxes, duties and other charges upon the export, import, sale, purchase, ownership, possession or use of Goods. Buyer shall indemnify Seller against all such taxes, duties or other charges imposed on Seller ("Taxes"). Seller may add the amount of any such Taxes paid or payable by Seller to the total purchase price of Goods.

Seller's remedies

15.1 No relaxation, forbearance or delay by Seller in enforcing any Contract shall prejudice, affect or restrict the rights of Seller in connection with any Contract, nor shall any waiver by Seller operate as a waiver of any future rights.

Amendments or Variations

16.1 No amendment to the whole, or any part of, any Contract shall be valid unless it is in Writing and signed by Seller's Managing Director.

Headings

17.1 Headings to the Clauses in these Conditions of Sale are inserted for convenience only and shall not affect construction.

Severability

18.1 If any provision in a Contract (or part thereof) is invalid, ineffective or unenforceable, the same shall not affect any other provision or the remainder of such provision. All provisions (or parts thereof) not affected by such invalidity, ineffectiveness or unenforceability shall remain in full force and effect.

Governing Law & Jurisdiction

19.1 All Contracts shall be governed and construed in accordance with the laws of England, and Buyer shall submit to the jurisdiction of the English Courts, notwithstanding any conflict of law principles. However, Seller shall be free to take action to obtain payment under a Contract or to recover Goods wherever it chooses.

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Third Party Rights

20.1 The terms of each Contract are exclusive to Buyer and Seller and no third party is intended to have, nor will have, any rights under or in connection with it.

Data Protection

21.1 The Company is registered as a data controller under the Data Protection Act 1998. It may keep and use personal details of the Customer and its employees for the purposes of providing products and services to the Customer. In addition, the Company may disclose the Customer's and its employees' details to organisations working on its behalf anywhere in the world (for example, credit reference agencies, mailing houses, transport companies).

21.2 The Customer consents that the Company may use the name of the Customer by disclosing it to certain suppliers for market research and commission purposes.

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