



## **STANDARD TERMS & CONDITIONS OF SALE**

Gallay Limited (hereinafter called “the Company”) undertake business on the terms and conditions set out in this statement.

### **DEFINITIONS: -**

“Goods” shall mean all items including replacement parts supplied by the Company.

“Work” shall mean work or repairs done by the Company and more particularly described in the Acknowledgement.

“Specification” means the technical description (if any) of the Goods contained or referred to in the Acknowledgement.

“Acknowledgement” shall mean the acknowledgement of order sent by the Company to the Customer for the sale of Goods or provision of Work.

“Customer” shall mean any other person entering into a contract with the Company for the supply of Goods or the execution of Work.

### **GENERAL**

1. AN Acknowledgement from the Company constitutes an offer on behalf of the Company, which may only be accepted by the Customer in writing or by the acceptance by the Customer of the Goods or Work specified in the Acknowledgement.
2. UNLESS expressly excluded in writing by the Company these terms and conditions shall be deemed to be incorporated into any contract between the Company and the Customer and shall have precedence over any terms and conditions the Customer may seek to impose on the contract.
3. PAMPHLETS, brochures and like documents published and/or supplied by the Company are intended to give information to the Customer in good faith. Unless expressly confirmed in writing by the Company no statement in such a document shall bind the Company or become part of any contract. The Company shall be under no liability whatsoever arising from any representations statements or reports made by any servant or agent of the Company unless it is made in writing and signed by or on behalf of the Company.
4. (1) ANY quotation or estimate by the Company is a statement of opinion and is neither an offer to the Customer nor binding on the Company in any way whatsoever (unless agreed otherwise in writing by the Company) until set out on the Company’s Acknowledgement. No alternations to the Goods or Work specified in the Acknowledgement shall be binding on the Company unless agreed in writing by the Company.  
(2) Where Goods are supplied to the Customer’s design or specification then Customer’s order must be accompanied by sufficient information to enable the Company to proceed with the contract forthwith and in the event that the information so supplied is found at any time to be insufficient or inaccurate in any what whatsoever then the Company may at its option either (and without prejudice to any other remedy) cancel the contract or proceed with the contract but at an increased price to cover any increase in costs which are incurred as a consequence of the insufficient or inaccurate information.
5. (1) ALL Goods and Works shall be invoiced to the Customer at the price set out in the Company’s Acknowledgement which is quoted net ex works exclusive of VAT and subject to fluctuation in the event of any increase in the cost of labour or increase in the cost of materials and overheads.  
(2) IF after the date of any contract for the sale or supply of Goods or Work the Company cannot obtain such goods or do such Work to the original specification the Company shall be entitled to supply Goods or do Work to the altered specification and the Customer shall accept delivery thereof.

- (3) FURTHER if in that event the Goods or altered specification require modification or further work to fit them for the purposes required by the Customer the Customer shall pay a reasonable price for such modification or further work.
6. THE prices quoted on the Order are for delivery at the Company's Works and do not include packaging or transportation charges which will be charged in addition to the price.
7. (1) UNLESS otherwise agreed in writing by the Company the price charged for Goods and Work shall be paid in full at the end of the month next following the month of delivery of the Goods.  
(2) IN the event that the Customer shall fail to pay the Company in accordance with the terms agreed with the Purchaser then the Company may without prejudice to any other rights it may have suspend any further delivery of Goods or Work that have been ordered by the Customer.  
(3) IN respect of all accounts that are not paid by the Customers from the due date the Company shall be entitled to charge and recover interest from the Customer at the rate of 5% above Barclays Bank plc base rate from the date of delivery of the Goods or Work on such sums that remains outstanding.

## **DELIVERY**

8. THE Company will endeavour to complete the contract or deliver the Goods or Work within the time stated on the Acknowledgement but in no circumstances will it be liable for any loss or damage of any kind whatsoever caused directly or indirectly by any delay. If by reason of force majeure the completion of the contract or the delivery of the Goods is in the Company's opinion rendered impractical the Company shall be at liberty to terminate the contract by sending by ordinary post to the Customer a notice in writing to that effect thereupon the Customer will pay to the Company such sum as will together with any other sums paid previously bear the same proportion to the contract price as the Goods already delivered or the Work already completed.
9. (1) UNLESS otherwise agreed in writing all orders will be despatched from the Company's works at the Customer's risk and expense.  
(2) Goods shall be deemed to have been delivered when the Company appropriates Goods to the Customer's order or delivers them into possession of a carrier.  
(3) Where the Company agreed to deliver Goods at its risk no claim for non-delivery will be considered unless received in writing by the Company within 21 days from its advice note or equivalent document. Neither will any claim for shortage or damage be accepted unless such claim is received in writing by the Company with a copy to the Company's carrier within three days of receipt of the Goods by the Customer'
10. IF the Customer fails to take delivery of the Goods or the Work the Company shall be entitled to:-  
(a) A reasonable storage charge after two days have elapsed after the Customer should have taken delivery (such storage being at the Customer's risk); and  
(b) Sell the goods after giving two weeks written notice to the Customer at his last known address and to deduct from the proceeds of sale any amounts due to the Company

## **DESCRIPTIONS**

11. THE Company reserves the right without notice and without affecting the validity of the contract in any way whatsoever to make such changes in specification materials dimensions and designs as it thinks reasonable or desirable.
12. ILLUSTRATIONS descriptions and weights are to be taken as a general guide only and are not binding on the Company in any way whatsoever unless expressly agreed in writing by the Company.

## **PROPERTY IN THE GOODS**

13. NOTWITHSTANDING that the risk in the Goods passes in accordance with clause 9 hereof title in the Goods shall not pass to the Customer until which ever shall be the first occurring of the following: -  
(1) Payment being received by the Company for the Goods

- (2) The Customer selling the Goods in accordance with the provisions of these terms and conditions in which case title to the Goods shall be deemed to have passed to the Customer immediately prior to the delivery of the Goods to the sub purchaser
- (3) The Company waiving its right under this clause in respect of specified Goods where upon title to the said Goods shall forthwith vest in the Customer.
14. BEFORE title is passed to the customer under the clause 13 and without prejudice to any of its other rights the Company shall have the right to recover or resell the Goods or any of them and may enter upon the Customer's premises by its Servants or Agents for that purpose.
15. SHOULD the Customer alter the Goods by subjecting them to any manufacturing process or incorporating them into another product or mixing them in any way then the resulting product ("Altered Goods") will pass into the ownership of the Company until payment due under the contract under which the Goods were supplied between the Company and the Customer has been made in full and all the Company's rights hereunder shall extend to the Altered Goods.
16. UNTIL payment due under the contract between the Customer and the Company for the supply of Goods has been made in full.
- (i) The Customer shall hold upon trust for the Company the Goods and any Altered Goods
  - (ii) All Goods and Altered Goods shall be stored separately and clearly marked as the property of the Company.
  - (iii) In the event of the sale or hire of the Goods or Altered Goods by the Customer he shall hold the proceeds of such sale or hire on trust for the Company in a separate Bank Account opened by the Customer for this purpose.
  - (iv) The Company shall be entitled to trace all such proceeds of sale or hire charges received by the Customer through any Bank or other Account maintained by the Customer.
  - (v) In the event of sale or hire of the Goods or the Altered Goods by the Customer in the ordinary course of its business the Customer shall assign its rights to recover the selling price or hire charges from the third parties concerned by the Company if required to do so in writing by the Company.
17. AS the insurable risk in the Goods shall pass to the Customer as soon as the Goods are delivered to him and pending disposal the Customer shall keep the Goods Insured in the amount of the price in which the Goods are sold to the Buyer against all Insurable risks.
18. IF Goods are destroyed by any insured risk prior to the same being paid for by the Customer the Customer shall receive the proceeds of any such Insurance for Trustee for the Company.
19. IN the event that the Company recover the Goods or Altered Goods under the provisions of clause 14 the price in respect of the Goods shall remain due and payable in full together with interest in accordance with the provisions of clause 7 (3) in such cases the Company will use its best endeavours to dispose of the Goods or the Altered Goods at a fair and reasonable price (which price the Company shall in its absolute discretion determine having regard to the original price the age general condition of the Goods or Altered Goods and the state of the market) and any sum so received shall be applied first in the payment of the Company's expenses in recovering the disposing the goods and Altered Goods (including all reasonable professional fees incurred) next in satisfaction of any interest accrued and finally in diminution of the price.
20. IN the event of the Customer going into liquidation or being declared bankrupt then the Customer's power or sale in respect of Goods or Altered Goods shall forthwith determine

## **WAIVER**

21. ANY failure on the part of the Company to insist on the strict performance of any of the terms and conditions of this contract shall not be deemed a waiver of any rights of remedies to the Company against the Customer and shall furthermore not to be deemed a waiver of any subsequent breach of the Customer of these terms and conditions or the terms and conditions of the guarantee.

## **PATENTS AND COPYRIGHT**

22. NO right of license is granted by the contract to the Customer in respect of any patent copyright sketches and designs or other industrial property rights except the right to use or resell the Goods or Work.
23. THE Customer undertakes with the Company that it will safeguard and protect all drawings designs specifications instructions manual and other items supplied by the Company with the Goods and will ensure that the Company's patents copyrights and other industrial rights in such items are not infringed in any way whatsoever.
24. WHERE the Company manufactures Goods to the Customer's design or specification the Customer warrants to the Company that any plan drawing specification or other document that it delivers to the Company and all patterns copyrights registered designs and other industrial property rights in such items are vested in the Customer and that the Customer has obtained all necessary consents and licenses to deliver the same to the Company and allow the Company to make such use of the said documents or items as may be necessary for the performance of the contract.

## **TOOLS AND MATERIALS**

25. ALL tools, moulds, dye produced by the Company for the purposes of supplying Goods to the order of the Customer remains the property of the Company notwithstanding that the cost of production of such items may be paid by the Customer. The Company undertakes with the Customer that it will preserve and maintain such items for a period of 12 months from the date of the last delivery of Goods made with them to the Customer.
26. WHENEVER the Company are required to purchase raw materials and are partly processed or finished parts to satisfy the Customer's order then the Customer shall purchase at a fair and reasonable price all such materials and parts as may be remaining in the Company's possession and after completion of the Customer's contract for the supply of Goods or Work. The terms for payment in respect of such materials and parts shall be the same as for the supply of Goods or Work and as provided in clause 7 of these conditions.

## **DISPLAY**

27. IT is an expressed condition of the contract between the Company and the Customer that Goods sold by the Company shall not be exhibited by the Customer nor shall he permit them to be exhibited at any exhibition in the United Kingdom without the prior approval of the Company in writing.

## **GUARANTEES**

28. WHERE Goods are sold or materials supplied by the execution of Work and such goods or materials are guaranteed or warrantied by the manufacturers or suppliers thereof then the Company will assist the Customer to obtain the benefit of such guarantee or warranty but the Company shall be under no greater liability whatsoever to the Customer in respect of such goods or materials under or in connection with such guarantee or warranty or under any condition or warranty expressed or implied by statute or otherwise.
29. ALL other Goods and Work supplied by the Company are subject to the following terms and conditions: -
  - (1) In the event of any defect being disclosed in the Goods within a period of 12 months from delivery the Company undertake to repair or in the absolute discretion of the Company to replace the defective part providing the Goods are returned by the Customer to the Company's factory or such other place as the Company may direct.
  - (2) The delivery of the Goods to the Company and the return by the Company to the Customer under the terms of the guarantee is at the risk and cost to the Customer.
  - (3) The Company shall be under no liability under the terms of this guarantee or otherwise in the event that the Goods have been altered or modified by the Customer or used by the Customer in any way contrary to the instruction issued by the Company for the use of the Goods.

30. SAVE AS AFORESAID the Company shall not be liable for any loss or damage of any kind whatsoever caused directly or indirectly by any defect in material or workmanship or any defects in the Goods or Work or by any negligence of the Company or any Servant or Agent of the Company insofar as it is lawful to do so or warranty or conditions expressed or implied statutory or otherwise are hereby expressly excluded.

### **CONSTRUCTION**

31. NOTWITHSTANDING the fact that any offer may be made by the Company outside the jurisdiction of the Courts of England and Wales the Laws of England and Wales shall apply to any contract arising and the terms and conditions of such contract shall be construed and given effect according to the Laws of England.

### **MISCELLANEOUS**

32. THE Company reserves the right to subcontract the execution of the contract between the Customer and the Company or any part thereof.
33. THE Customer shall not assign to any third party the benefit of this contract without the Company's expressed consent in writing.