

## **A E Oscroft & Sons Limited**

### **Terms and Conditions of Sale**

These Conditions will apply to all contracts between AEO and the Customer in relation to the supply by AEO of any and all Goods. The definitions used in these Conditions are set out in Schedule 1.

#### **1. Basis of Contract**

- 1.1 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.
- 1.2 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 1.3 Any samples, drawings, descriptive matter or advertising produced by AEO and any descriptions or illustrations contained in AEO's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They will not form part of the Contract nor have any contractual force.
- 1.4 No employee or agent of AEO has any authority to vary these Conditions orally or to make any representation on behalf of AEO as to their effect.

#### **2. Quotations and Orders**

- 2.1 On receipt of a request accompanied by a Specification from the Customer, AEO may submit a quote based on that Specification but will be under no obligation to do so.
- 2.2 Any quotation given by AEO will not constitute an offer and a quotation will only be valid:
  - 2.2.1 for 60 days unless otherwise stated in the quotation; and
  - 2.2.2 on the basis of the particular Specification submitted by the Customer in accordance with clause 2.1.
- 2.3 On receipt of a quotation, the Customer will decide whether or not to place an Order with AEO and will notify AEO as soon as possible of its decision.
- 2.4 An Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.5 The Order will only be deemed to be accepted when AEO issues a written acceptance of it, at which point the Contract will come into existence.

#### **3. Specification**

- 3.1 The Customer will submit the Specification in relation to the Goods with its Order. If AEO envisages any issues or problems with the Specification, it will notify the Customer. The parties will use reasonable endeavours to agree the Specification.
- 3.2 If the parties cannot agree the Specification:

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- 3.2.1 either party may refer the matter to be dealt with in accordance with clause 16; or
- 3.2.2 without prejudice to any other rights or remedies AEO may have, AEO may cancel the Customer's Order without liability. The Customer will pay AEO fair and reasonable compensation for any work in progress on the Goods at the time of termination (including (without limitation) management time incurred by AEO in relation to that Order prior to the time of termination), but such compensation will not include loss of anticipated profits or other consequential loss.
- 3.3 If AEO suggests an amendment to the Specification but the Customer does not respond to AEO in relation to that suggested amendment within 14 days, the amendment will be deemed to be approved by the Customer and AEO will be entitled to proceed with its manufacture of the Goods on the basis of that amendment to the Specification and the Customer will be liable to pay for the Goods in accordance with these Conditions.
- 3.4 The Customer will attend all meetings arranged by AEO relating to matters governed by these Conditions at the Customer's expense.
- 4. **Goods**
- 4.1 The Goods are described in the Specification.
- 4.2 The Customer will indemnify AEO against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by AEO in connection with any claim made against AEO for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with AEO's use of the Specification. This clause 4.2 will survive termination of the Contract.
- 4.3 AEO reserves the right to cease working on an Order if required by any applicable statutory or regulatory requirement. To the extent that it is legally able to do so, AEO will raise any such issue promptly with the Customer and the parties will work together using reasonable endeavours to agree a solution, including an amended Specification if necessary. AEO reserves the right to increase the price of the Goods if any such solution or amendment to the Specification results in increased costs to AEO.
- 5. **Delivery**
- 5.1 AEO will make the Goods available to the Customer Ex Works at the Collection Location.
- 5.2 Risk of loss of or damage to the Goods will pass to the Customer once the Goods are made available for collection in accordance with clause 5.1.
- 5.3 AEO will:
  - 5.3.1 issue the Customer with a Certificate of Conformity in respect of the Goods; and
  - 5.3.2 provide the Customer with a delivery note that shows all relevant Customer and AEO reference/order numbers, the type and quantity of

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the Goods (including the code/batch number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments.

- 5.4 If AEO requires the Customer to return any packaging materials, AEO will notify the Customer. The Customer will make any such packaging materials available for collection at such times as AEO will reasonably request.
- 5.5 Any dates quoted for collection are approximate only, and the time of collection is not of the essence. AEO will not be liable for any delay in making the Goods available for collection that is caused by a Force Majeure Event or the Customer's failure to provide AEO with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. The Goods may be made available for collection in advance of any date quoted for collection provided that the Customer is given reasonable advance notice.
- 5.6 If AEO fails to deliver the Goods, its liability will be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. AEO will have no liability for any failure to deliver the Goods or make the Goods available for collection to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide AEO with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.7 If the Customer fails to collect the Goods within 5 Business Days of AEO notifying the Customer that the Goods are ready:
- 5.7.1 delivery of the Goods will be deemed to have been completed at 9.00 am on the third Business Day after the day on which AEO notified the Customer that the Goods were ready; and
- 5.7.2 AEO will store the Goods until collection takes place, and may at its discretion charge the Customer for all related costs and expenses (including insurance).
- 5.8 If 10 Business Days after the day on which AEO notified the Customer that the Goods were ready for collection, the Customer has not collected them, AEO may dispose of part or all of the Goods and, after deducting reasonable storage and selling costs and a reasonable amount to cover wasted management time, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 5.9 If AEO makes available for collection up to and including 10% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, a pro rata adjustment will be made to the Order invoice.
- 5.10 AEO may make the Goods available for collection by instalments, which will be invoiced and paid for separately. Any delay in making the Goods available for collection or defect in an instalment will not entitle the Customer to cancel or refuse to collect any other instalment. AEO reserves the right to withhold instalments if earlier instalments are not paid for.

## **6. Customer's Obligations**

- 6.1 The Customer will:

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- 6.1.1 (and will ensure that its employees, agents and contractors) act at all times in a professional and courteous manner in relation to all matters governed by these Conditions;
- 6.1.2 ensure that the terms of the Order and any information it provides in relation to the Goods and their manufacture is complete and accurate;
- 6.1.3 co-operate with AEO in all matters relating to the Goods and these Conditions;
- 6.1.4 provide AEO in a timely fashion with such information and materials as AEO may reasonably require in order to manufacture the Goods;
- 6.1.5 obtain and maintain all necessary licences, permissions and consents which may be required for the manufacture of the Goods by AEO;
- 6.1.6 keep all materials, equipment, documents and other property of AEO ("**AEO Materials**") at the Customer's premises in safe custody at its own risk, maintain AEO Materials in good condition until returned to AEO, and not dispose of or use AEO Materials other than in accordance with AEO's written instructions or authorisation.

## **7. Quality**

- 7.1 Subject to the Customer's compliance with these conditions, AEO warrants that when the Goods are made available for collection pursuant to clause 5.1, and for the Warranty Period, the Goods will:
  - 7.1.1 conform in all material respects with their description and any applicable Specification; and
  - 7.1.2 be free from material defects in design, material and workmanship.
- 7.2 Subject to clause 7.3, if:
  - 7.2.1 the Customer gives notice in writing to AEO during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 7.1 (save that in relation to defects apparent on visual inspection, written notice must be given to AEO within 14 Business Days of collection);
  - 7.2.2 AEO is given a reasonable opportunity of examining such Goods; and
  - 7.2.3 the Customer (if asked to do so by AEO) returns such Goods to AEO's place of business at the Customer's cost,

AEO will, at its option, repair or replace any defective Goods. The Customer acknowledges that any such repair or replacement will be subject to AEO's then current lead times.
- 7.3 AEO will not be liable for the Goods' failure to comply with the warranty set out in clause 7.1 in any of the following events:
  - 7.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 7.2;

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- 7.3.2 the defect arises because the Customer failed to follow AEO's oral or written instructions as to the storage, commissioning, installation, use and/or maintenance of the Goods or (if there are none) good trade practice regarding the same;
  - 7.3.3 the defect arises as a result of AEO following any drawing, design or Specification supplied by the Customer;
  - 7.3.4 the Customer alters or repairs such Goods without the written consent of AEO;
  - 7.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - 7.3.6 the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 7.4 Except as provided in this clause 7, AEO will have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 7.1.
- 7.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 7.6 These Conditions will apply to any repaired or replacement Goods supplied by AEO.
- 8. Title**
- 8.1 Title to the Goods will not pass to the Customer until the earlier of:
- 8.1.1 AEO receiving payment in full (in cash or cleared funds) for the Goods and any other goods that AEO has supplied to the Customer in respect of which payment has become due, in which case title to the Goods will pass at the time of payment of all such sums; and
  - 8.1.2 the Customer reselling the Goods, in which case title to the Goods will pass to the Customer at the time specified in clause 8.3.
- 8.2 Until title to the Goods has passed to the Customer, the Customer will:
- 8.2.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as AEO's property;
  - 8.2.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 8.2.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of collection;
  - 8.2.4 notify AEO immediately if it becomes subject to any of the events listed in clause 11.1; and
  - 8.2.5 give AEO such information relating to the Goods as AEO may require from time to time.

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- 8.3 Subject to clause 8.4, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before AEO receives payment for the Goods. However, if the Customer resells the Goods before that time:
- 8.3.1 it does so as principal and not as AEO's agent; and
  - 8.3.2 title to the Goods will pass from AEO to the Customer immediately before the time at which resale by the Customer occurs.
- 8.4 If before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clause 11.1, then, without limiting any other right or remedy AEO may have:
- 8.4.1 the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
  - 8.4.2 AEO may at any time:
    - (a) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
    - (b) 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.

## **9. Lien**

- 9.1 In addition to any other right given in law, AEO will have a general lien in respect of all sums due from or claims against the Customer upon all Goods to be supplied to the Customer or upon which work has been or is to be done on AEO's behalf.
- 9.2 The lien conferred on AEO by clause 9.1 will subsist until such time as the Customer has paid to AEO the price of the Goods.
- 9.3 Without prejudice to any of its other rights, AEO may at the expiration of 14 days' written notice to the Customer sell any Goods upon which AEO has any lien and, where the property in such Goods is at the time of such sale with the Customer, will be deemed to be his agent for the purpose of effecting such sale. AEO may apply the proceeds of such sale towards the satisfaction of sums due or claims against the Customer without prejudice to AEO's right to recover the balance thereof from the Customer.

## **10. Price and Payment**

- 10.1 The price of the Goods will be the price set out in the Order.
- 10.2 AEO may, by giving notice to the Customer at any time before making the Goods available for collection, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- 10.2.1 any factor beyond AEO's control (including foreign exchange fluctuations, increases in taxes and duties and material costs);
  - 10.2.2 changes to the Specification or required quantities;

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- 10.2.3 any request by the Customer to change the anticipated collection date(s), quantities or types of Goods ordered; or
  - 10.2.4 any delay caused by any instructions of the Customer or failure of the Customer to give AEO adequate or accurate information or instructions.
- 10.3 The price of the Goods:
- 10.3.1 excludes amounts in respect of VAT, which the Customer will additionally be liable to pay to AEO at the prevailing rate, subject to the receipt of a valid VAT invoice.
  - 10.3.2 excludes the costs and charges insurance and transport of the Goods unless stated otherwise in AEO's written acceptance of the Order.
  - 10.3.3 includes the costs and charges of packaging unless stated otherwise in AEO's written acceptance of the Order.
- 10.4 If on receipt of a request to return packaging materials the Customer fails to do so within 6 months of collection of the relevant Goods, AEO will have the right to invoice the Customer for the value of the packaging items and the Customer will pay any such invoice in full and in cleared funds within 30 Business Days of the end of the month following the month the invoice was dated.
- 10.5 Unless agreed otherwise in writing:
- 10.5.1 invoices will be raised and the Customer will pay AEO's invoices at the intervals specified in AEO's written acceptance of the Order submitted pursuant to clause 2.5, or, if no intervals are specified, AEO may invoice the Customer for the Goods on or at any time after it accepts the Customer's order; and
  - 10.5.2 the Customer will pay invoices in full and in cleared funds within 30 days of the end of the month following the month the invoice was dated. Payment will be made to the bank account nominated in writing by AEO. Time for payment is of the essence.
- 10.6 If the Customer fails to make any payment due to AEO under the Contract by the due date for payment, then the Customer will pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest will accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer will pay the interest together with the overdue amount.
- 10.7 The Customer will pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). AEO 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 AEO to the Customer.
- 11. Termination**
- 11.1 Without limiting its other rights or remedies, AEO may terminate this Contract with immediate effect by giving written notice to the Customer if:

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- 11.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
  - 11.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - 11.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
  - 11.1.4 the Customer's financial position deteriorates to such an extent that in AEO's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 11.2 Without limiting its other rights or remedies, AEO may suspend provision of the Goods under the Contract or any other contract between the Customer and AEO if the Customer becomes subject to any of the events listed in clause 11.1.1 to clause 11.1.4, or AEO reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 11.3 Without limiting its other rights or remedies, AEO may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 11.4 On termination of the Contract for any reason the Customer will immediately pay to AEO all of AEO's outstanding unpaid invoices and interest.
- 11.5 Termination of the Contract will not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- 11.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination will remain in full force and effect.

## **12. Limitation of Liability**

- 12.1 Nothing in these Conditions will limit or exclude AEO's liability for:
- 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - 12.1.2 fraud or fraudulent misrepresentation;
  - 12.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - 12.1.4 defective products under the Consumer Protection Act 1987; or

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- 12.1.5 any matter in respect of which it would be unlawful for AEO to exclude or restrict liability.
- 12.2 Subject to clause 12.1:
- 12.2.1 AEO will under no circumstances whatsoever 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
- 12.2.2 AEO'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, will in no circumstances exceed 50% of the price of the Goods.
- 13. Intellectual Property**
- 13.1 The Customer acknowledges that all Intellectual Property in the Goods belongs to AEO (other than Intellectual Property in any materials provided by the Customer).
- 13.2 The Customer grants AEO a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to AEO for the purpose of supplying the Goods to the Customer.
- 14. Confidentiality**
- 14.1 Each party undertakes that it will not disclose to any person any confidential information concerning the business, affairs, customers, plans for product development clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 14.2. For the purposes of this clause 14, "group "means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
- 14.2 Each party may disclose the other party's confidential information:
- 14.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these Conditions. Each party will ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 14; and
- 14.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.3 No party will use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these Conditions.
- 15. Product Recall**
- 15.1 If the Customer becomes aware of or is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods

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from the market ("**Recall Notice**") it must immediately notify AEO in writing and attach a copy of the Recall Notice.

- 15.2 Unless required by law, the Customer may only undertake a recall or withdrawal of the Goods from the market with the written permission of AEO and in accordance with clause 15.4.
- 15.3 AEO may issue a notice to recall or withdraw the Goods from the market ("**Voluntary Recall Notice**") if:
- 15.3.1 the supply or use of the Goods infringes, or may infringe, a third party's intellectual property rights;
  - 15.3.2 the Goods are, or may be, unsafe;
  - 15.3.3 the Goods are, may be, or may become illegal or non-compliant with any law, regulation or government agency or industry standard;
  - 15.3.4 a defect in the Product may cause harm to AEO's reputation or brand; or
  - 15.3.5 any other reasonable ground.
- 15.4 The Customer must:
- 15.4.1 comply with any Recall Notice or Voluntary Recall Notice; and
  - 15.4.2 give such assistance as AEO reasonably requires to recall or withdraw the Product from the market, and comply with AEO's instructions about the process of implementing that recall or withdrawal.

## **16. Dispute Resolution**

- 16.1 An Expert is a person appointed in accordance with this clause 16 to resolve any disagreement between the parties relating to the Specification of the Goods.
- 16.2 Where under these Conditions a party wishes to refer a matter to an Expert, the parties will first agree on the appointment of an independent Expert and agree with the Expert the terms of his appointment. If the parties are unable to agree on an Expert or the terms of the Expert's appointment within seven days of either party serving details of a suggested expert on the other, either party will then be entitled to request the Society of Motor Manufacturers & Traders to appoint a suitable and appropriate Expert with the required expertise.
- 16.3 The Expert is required to prepare a written decision including reasons and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to the Expert.
- 16.4 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause 16, then:
- 16.4.1 either party may apply to the Society of Motor Manufacturers & Traders to discharge the Expert and to appoint a replacement Expert with the required expertise; and

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- 16.4.2 this clause 16 will apply to the new Expert as if they were the first Expert appointed.
- 16.5 The parties are entitled to make submissions to the Expert and will provide (or procure that others provide) the Expert with any assistance and documents as the Expert reasonably requires to reach a decision. Each party will with reasonable promptness supply each other with all information and give each other access to all documents, personnel and things as the other party may reasonably require to make a submission under this clause 16.
- 16.6 The Expert will act as an expert and not as an arbitrator. The Expert will determine the matters referred to the Expert under the agreement. The Expert's written decision on the matters referred to the Expert will be final and binding on the parties in the absence of manifest error or fraud.
- 16.7 All matters concerning the process and result of the determination by the Expert will be kept confidential among the parties and the Expert. Each party will act reasonably and co-operate to give effect to the provisions of this clause 16 and otherwise do nothing to hinder or prevent the Expert from reaching their determination.
- 16.8 The Expert and the Society of Motor Manufacturers & Traders will have no liability to the parties for any act or omission in relation to this appointment, save in the case of bad faith.
- 16.9 If any other dispute arises in connection with these Conditions, the parties agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with the Centre for Effective Dispute Resolution ("**CEDR**") Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of notice of the dispute, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing ("**ADR notice**") to the other party the dispute, referring the dispute to mediation. If there is any point on the logistical arrangements of the mediation, other than nomination of the mediator, upon which the parties cannot agree within 14 days from the date of the ADR Notice, where appropriate, in conjunction with the mediator, CEDR will be requested to decide that point for the parties having consulted with them. Unless otherwise agreed, the mediation will start not later than 28 days after the date of the ADR notice.
- 16.10 For the avoidance of doubt, clause 16 will not prevent AEO from immediately initiating court proceedings to seek any interim relief (including injunctive relief) or take advantage of any applicable time limitation.
17. **General**
- 17.1 **Divisibility.** This Contract is divisible. Each delivery made hereunder:
- 17.1.1 will be deemed to arise from a separate contract; and
- 17.1.2 will be invoiced separately and any invoice for a delivery will be payable in full in accordance with the terms of payment provided for herein without reference to and notwithstanding any defect or default in the delivery of any other instalment.
- 17.2 **Force Majeure.** Neither party will be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this

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Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 6 weeks, the party not affected may terminate this Contract by giving 7 days' written notice to the affected party.

- 17.3 **Assignment and other dealings.** AEO may at any time assign, transfer, mortgage, 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, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of AEO.
- 17.4 **Entire agreement.** This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it will have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Conditions. Each party agrees that it will have no claim for innocent or negligent misrepresentation based on any statement in these Conditions.
- 17.5 **Variation.** No variation of this Contract will be effective unless it is in writing and signed by the parties (or their authorised representatives). In the case of AEO, no addition to or variation of these Conditions will be binding on AEO unless in writing signed by a director of AEO.
- 17.6 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.
- 17.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision will be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 17.7 will not affect the validity and enforceability of the rest of the Contract.
- 17.8 **Notices.** Any notice or other communication given to a party under or in connection with the Contract will be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause 17.8, and will be delivered personally, sent by pre-paid first class post or other next working day delivery service or commercial courier. A notice or other communication will be deemed to have been received: if delivered personally, when left at the address referred to in clause 17.8; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier or on the date and at the time that the courier's delivery receipt is signed. The provisions of this clause 17.8 will not apply to the service of any proceedings or other documents in any legal action.
- 17.9 **Third party rights.** No one other than a party to this Contract and their permitted assignees will have any right to enforce any of its terms.

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- 17.10 **Governing law and jurisdiction.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, will be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation. Incoterms 2010 will apply but where they conflict with these Conditions, these Conditions will prevail.

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**SCHEDULE 1**

**DEFINITIONS AND INTERPRETATION**

**PART 1**

In these Conditions, the following definitions apply:

**AEO:** AE Oscroft & Sons Limited, a company registered in England and Wales with company number 04496910.

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

**Certificate of Conformity:** the document issued by AEO in respect of the Goods which confirms that the Goods meet the Specification.

**Collection Location:** AEO's premises or such other location as may be advised by AEO or agreed between the parties.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 17.5.

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

**Customer:** the person or firm who purchases the Goods from AEO.

**Expert:** has the meaning given in clause 13.

**Force Majeure Event:** an event or circumstance beyond a party's reasonable control.

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

**Incoterms 2010:** the international rules for the interpretation of trade terms prepared by the International Chamber of Commerce (Incoterms).

**Intellectual Property:** product images, literature design, website design, patents, rights to inventions, copyright and related rights, rights in software, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world relating to the Goods, owned by AEO or acquired by AEO from time to time.

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

**Specification:** any specification for the Goods as to (without limitation) material, finish and dimensions, including any related plans and technical drawings, that is agreed in writing by the Customer and AEO.

**VAT:** value added tax or any equivalent tax chargeable in the UK or elsewhere.

## **A E Oscroft & Sons Limited**

### **Terms and Conditions of Sale**

**Warranty Period:** 12 months from the date the Goods are made available for collection by the Customer pursuant to clause 5.1.

#### **PART 2**

In these Conditions, the following rules apply:

1. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
2. A reference to:
  - a. a party includes its successors and permitted assigns;
  - b. a statute or statutory provision is a reference to it as amended or re-enacted;
  - c. a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision;
  - d. **writing** or **written** does not include email.
3. Any words following the terms **including** or **include** or any similar expression will be construed as illustrative and will not limit the sense of the words, description, definition, phrase or term preceding those terms.