

# Terms and Conditions of Sale

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## 1 DEFINITIONS

- 1.1 The Buyer means the party to whom Goods are invoiced.
- 1.2 The Contract means any contract between the parties for the sale of Goods by the Seller to the Buyer.
- 1.3 The Contract Price means the price in effect at the time of despatch of the goods from the Sellers warehouse unless otherwise stated.
- 1.4 Goods means any goods ordered by the Buyer and supplied by the Seller pursuant to the Contract.
- 1.5 The Seller means Chiltern Invadex UK Ltd.

## 2 TERMS AND CONDITIONS

- 2.1 These are the only conditions upon which the Seller is prepared to deal with the Buyer, and they shall govern the Contract to the entire exclusion of any other express or implied terms ALWAYS PROVIDED that nothing contained herein shall operate so as to effect the Buyers statutory rights.
- 2.2 These conditions represent the entire understanding between the parties and supersede any prior arrangements, representations, undertakings, agreements or implications.

## 3 PRICES

- The price charged is the price as per the Seller's current published trade price list, less any agreed discount, unless otherwise agreed or unless the Seller has amended the price given to cover any variation in the cost to the Seller. Prices are subject to change without notice. The Seller reserves the right to amend the prices given at any time to cover any variation in cost which takes place after that time.

## 4 PAYMENT

- 4.1 Goods for Delivery in the UK-
  - 4.1.1 Unless otherwise agreed the prices quoted are strictly net 30 days from the date of invoice, and are exclusive of VAT. Unless otherwise agreed in writing payments shall be made in Sterling to Chiltern Invadex UK Ltd. 126 Churchill Rd, Bicester, Oxfordshire OX26 4XD
- 4.2 Goods for Delivery Elsewhere than in the UK-
  - Unless otherwise agreed the prices quoted are strictly net payments payable by sight draft letter of credit or such similar document as maybe accepted by the Seller upon presentation of documents at delivery.

## 4.3 All Territories

- 4.3.1 Any liability on the part of the Seller is subject to the above terms of payment and all other of the Buyer's obligations under the Contract being strictly observed;
- 4.3.2 The Seller reserves the right to deliver any one or more consignments, each consignment to be paid for in accordance with the above terms, and in the event of payment being overdue for any one consignment the Seller shall be at liberty to suspend all future deliveries without liability, pending satisfactory settlement being reached;
- 4.3.3 Interest is payable upon any overdue payments at the rate of 5 per cent per annum above the Lloyds TSB PLC base rate from time to time until receipt of actual payment (a part of month being treated as a full month for the purpose of calculating interest).
- 4.3.4 In the event of receivership or liquidation, or where no valid reason is given for non-payment of invoices, the Directors or the Proprietors of the company or business shall become personally liable to settle all outstanding debts properly due to Chiltern Invadex UK Ltd.

- 4.4 If a payment is made without a reconcilable remittance advice then the seller has the right to allocate the payment against the oldest invoices on the account. A statement of account is sent by the seller to the buyer every month with the details of all outstanding invoices. Should a statement for the preceding month not be received by the buyer by the 10th of the month following then the buyer must notify the seller of non receipt. If any invoice is to be challenged or queried notwithstanding any other clause in the terms and conditions regarding time limits for notification of non delivery, shortage or damaged goods, then it must be done within 45 days of the said invoice date.

## Withholding of Payment and Set off

- 4.5 The buyer shall not be entitled to withhold payment of any amount payable under the Contract to the seller because of any disputed claim of the buyer in respect of defective goods or any other alleged breach of the contract by the seller nor shall the buyer be entitled to set off against any amount payable under the contract of the seller any sums that are not then due and payable by the seller or in respect of which the seller disputes liability. The buyer shall not be entitled to withhold payment of the full amount due when they dispute only part of an account.

## 5 DESPATCH

- 5.1 Dates for despatch shipping or delivery are approximate only and will date from the Seller's written acceptance of the Buyer's order. The Seller will use its best endeavours to ensure that such dates are met, but shall not be responsible for any direct or indirect losses which may arise from failure to despatch or deliver within the time stated. The Seller shall not be responsible for failure to deliver or delays in delivery occasioned by causes beyond its control, including without limitation strikes, lockouts, or other disturbances, inability to obtain materials, supplier's failure to deliver, breakdowns delays of carriers or suppliers, governmental acts and regulations, acts of public enemies, wars, blockades, insurrections, riots, epidemics, floods, washouts and explosions.

- 5.2 Should despatch be delayed by any cause whatsoever, a reasonable extension of time shall be granted, and until such extension has expired the Contract shall not be capable of cancellation by reason only of such delay.

- 5.3 Where Goods are delivered on instalments under this contract each instalment shall be deemed to be sold under a separate contract and any failure on the part of the Seller for the delivering of a particular instalment shall not entitle the Buyer to repudiate the contract with regard to any instalments remaining deliverable or to refuse or to withhold payment for any of the Goods delivered.

## 6 DELIVERY

- 6.1 Time shall not be of the essence unless so agreed in writing. Delivery dates and times given by the Seller are genuine estimates and the Seller will take all reasonable steps to comply with them but shall not be liable for failure to do so.

- 6.2 If no time for delivery is specified the Buyer shall be bound to accept the Goods when they are ready for delivery and the Seller shall be entitled to invoice the Buyer whether delivery is accepted or not. If delivery is not accepted then the Seller shall be entitled to store the Goods and charge the reasonable costs thereof to the Buyer together with any other cost incurred including additional carriage. If within 1 month after the invoice date the price or part thereof remains unpaid the Seller shall be entitled to sell the Goods to a third party at such price as the Seller shall deem reasonable and any loss shall be a debt payable by the Buyer.

- 6.3 In respect of Goods delivered within the UK the Contract Price includes delivery to the premises stipulated by the Buyer unless otherwise agreed (subject to paragraph 10 below).

- 6.4 In the case of Goods to be delivered elsewhere than in the UK the Seller will deliver in accordance with the Buyers instructions and at its expense. The Buyer will pay all charges including cost of insurance of the Goods in transit, shipping, storage, freight and handling charges, local taxes, custom duties and insurance ex Works, unless otherwise stated by the

Seller. If the Seller enters into any contract of carriage or insurance it does so as the Buyer's agent and at the Buyer's expense. The Buyer's order shall be deemed to include an irrevocable authority for the Seller to enter into any such contract of carriage or insurance as may be necessary and the Buyer will forthwith reimburse the Seller in respect of any and all expenses and charges thereby incurred.

- 6.5 In the case of Goods for delivery in the UK, the risk in the Goods shall pass to the Buyer from the date of delivery to the premises to which the Goods are required to be delivered or collection by the Buyer from the Seller's premises. In the case of Goods for delivery elsewhere than in the UK, the risk in the Goods shall pass to the Buyer at the moment of despatch from the Seller's premises. Where the Buyer fails to accept delivery pursuant to Clause 6.2 hereof and the Goods are stored by the Seller the risk shall pass to the Buyer from the invoice date and shall remain with the Buyer until sale or disposal.

- 6.6.1 If the Buyer enters into a Deed of Arrangement or makes any composition with Creditors or if a Receiving Order is made against him or if being a Company an Order for Winding Up is made or a Resolution for winding up is passed or if a Receiver is appointed or if the Buyer becomes otherwise unable or unwilling to meet his or its obligations in the ordinary course of business the Seller may stop any Goods in transit and suspend further deliveries and shall be entitled to treat the Contract as at an end owing to the default of the Buyer such default giving rise to damage;
- 6.6.2 Nothing in the preceding clause shall prejudice any other rights of the Seller;
- 6.6.3 Should default be made by the Buyer in paying any sum due under any Order as when it becomes due the Seller shall have the right to either suspend all further deliveries until the default be made good or at the discretion of the Seller and notwithstanding that the Seller may have exercised the right to suspend delivery to cancel the order so far as any further Goods remain to be delivered.

- 7 RESERVATION OF TITLE
  - 7.1 Notwithstanding delivery and the passing of risk, property in and title to the Goods shall remain with the Seller until the Seller has received payment of the full price of (i) all Goods and/or Services the subject of the Contract and (ii) all other goods and/or services supplied by the Seller to the Buyer under any other Contract whatsoever.
  - 7.2 Until property in and title to the Goods passes to the Buyer, the Buyer shall be entitled to deal with the Goods in the ordinary course of its business provided that if the Goods are altered or any goods become attached to the Goods or if any part of the Goods is replaced such alteration attachment or replacement shall not affect the Seller's property in and title to the Goods. Further, the Buyer will keep the Goods properly stored, protected, insured and separate from all or any other Goods whether belonging to the Seller and the Buyer or any other third party and will not remove, alter, modify, or deface the Goods and/or any identification mark placed on the Goods and/or their packaging.
  - 7.3 The Buyer's right to possession and power to deal with the Goods shall terminate immediately if any of the circumstances set out in Condition 7.6, 7.7, 7.8, and 7.9 occur or amounts due to the Seller are not paid by their due date. In such circumstances the Buyer shall place the Goods at the disposal of the Seller and the Buyer grants to the Seller an irrevocable licence to enter at any time any premises owned or occupied by the Buyer or in the Buyer's possession for the purpose of repossessing and removing any Goods the ownership of which has remained vested in the Seller. The Seller shall not be responsible for and the Buyer will indemnify the Seller against liability for any damage occurring during such repossession and removal where such damage could not reasonably have been avoided.
  - 7.4 The Seller will be entitled to recover payment for the Goods notwithstanding that property in and title to the Goods has not passed from the Seller.
  - 7.5 Where the Seller is unable to determine whether any goods are the Goods in respect of which the Buyer's right to possession and power to deal has terminated, the Buyer will be deemed to have sold all Goods of the kind sold by the Seller in the order in which they were invoiced to the Buyer.
  - 7.6 The Seller may immediately terminate the Contract forthwith or suspend future deliveries if the Buyer, passes a resolution or presents a petition for winding-up, bankruptcy or for the appointment of an administrator, the appointment of a receiver and/or manager or administrative receiver over the whole or any part of its undertaking and assets; makes a proposal for a voluntary arrangement within the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with or the calling of any meeting of its creditors generally (otherwise in furtherance of a scheme of amalgamation or reconstruction); the levying of execution or distress on any of its assets; the failure to pay its proper debts as and when due and anything analogous to any of the foregoing under the law of the jurisdiction where the Buyer is established.
  - 7.7 Without prejudice to any other rights or remedies under the Contract the Seller may at its option forthwith on written notice suspend deliveries or terminate the Contract wholly or in part and any other contract with the Buyer in the event that the Buyer does not make any payments by the date on which they become due under the Contract or any other contract between the Buyer and the Seller and/or if the Buyer commits any breach of any contract (including without limitation the Contract) with the Seller.
  - 7.8 If the Buyer terminates the Contract for reasons other than those provided for in Condition (7.6) which affect the Seller or due to a material breach entitling the Seller to terminate the Contract the Buyer shall be liable to the Seller for any costs or charges incurred by the Seller by reason of such termination together with all costs incurred by the Seller up to the date thereof and any difference between the price set out overleaf and the price at which the Seller is able to sell the Goods elsewhere and the Seller shall have a general lien for any such sum on all and any property of the Buyer in its possession including, but not limited to, any dies.
  - 7.9 In the event of a suspension of deliveries or performance the Seller shall be entitled as a condition of resuming performance, to require pre-payment, or such security as it may deem appropriate.

## 8 NOTICE OF NON-DELIVERY, SHORTAGE OR DAMAGED GOODS

- 8.1 The Seller must be notified of any shortage of or damage to Goods within 7 days of delivery or collection and such notification shall be confirmed in writing within 8 days of delivery or collection. No responsibility whatsoever for such shortages or damage will be accepted by the Seller in the event of failure by the Buyer to notify the Seller of the same within the said period and if no such notifications is given the Buyer shall be deemed to have accepted the Goods. Goods damaged in transit should not be accepted from the carrier and no credit will be given for or replacements made of Goods accepted from the carrier in a damaged condition. If Goods are rejected the Seller shall be entitled to inspect and/or test the same where the Goods then are or at such other place as the Seller shall require. The risk in the Goods so rejected shall remain with the Buyer until the Seller takes possession thereof.

## 9 LIMITATION OF LIABILITY

- 9.1 Except where there is an absolute prohibition against exclusion or restriction of liability the Seller shall not be under any liability whatsoever or howsoever arising in respect of or in connection with:
  - 9.1.1 any defect in the Goods which should reasonably have been discovered upon examining or testing prior to acceptance;
  - 9.1.2 any claim under this Contract to the extent that it relates to loss or damage which is not directly and immediately consequent upon the matters complained of;
  - 9.1.3 any such claim whatsoever to the extent that the total amount thereof exceeds more than one and a half times the total price of the Goods complained of;
  - 9.1.4 any claim made that the Goods do not comply with any Regulations Act of Parliament or other similar legislation and it shall be the Buyer's responsibility to ensure that the Goods comply with any regulations required for the purpose for which the Buyer intends to use them.

- 9.2 The Buyer will indemnify and hold harmless the seller against any losses, liabilities, costs or actions suffered or incurred as a consequence of any third party claiming that goods supplied or work undertaken by the seller is illegal, in breach of any intellectual property rights or other right which such third party may have.

## 10 MINIMUM ORDER

- The Seller will not be obliged to accept an order for Goods to a value of less than £100 pre VAT. In the event that the Seller does agree to accept an order for goods to a value of less than £100 pre VAT then that order will be subject to a handling and carriage charge of a minimum of £6.00, in addition to the Contract Price. All orders over £100 pre VAT will be delivered free of charge in mainland UK subject to any additional bulky carriage charge. All UK mainland orders are sent on a 48 hour delivery. For next day delivery in mainland UK there will be a minimum charge of £12.00 regardless of order size. For this service our sales office must receive the order by 3.00 pm on the day of despatch. The values for minimum order and carriage charge may vary from time to time.

## 11 VARIATION

- 11.1 No variation in the contract shall take place unless notified to a Director of the Seller in writing and accepted by the Director of the Seller in writing. No person (whether an employee, agent or representative of the Seller or otherwise) has any authority on the Seller's behalf to make orally any addition to or qualification or variation of the Contract or of these conditions.
- 11.2 Where a delivery schedule has been agreed the schedule shall be deemed to be firm for a maximum period of 180 days and is not under any circumstances to be subject to variation by the Buyer in less than that period. Any other variation of the delivery schedule must be agreed in accordance with this condition and unless so agreed shall be of no effect.
- 12 SUPPLY OF GOODS CANCELLATION OF ORDERS AND RETURNS
  - 12.1 Orders may be cancelled or Goods returned only with the prior written consent of the Seller and subject to any terms set down by the Seller (including a 25% charge for cancellation of orders).
  - 12.2 Certain items may be repaired, replaced or credited in full at the discretion of the Seller. All returns must be sent at the Buyer's expense to the Seller at Chiltern Invadex UK Ltd. 126 Churchill Rd. Bicester, Oxfordshire OX26 4XD, in a sealed carton accompanied by an accurate returns note. The return note must specify the fault and the invoice number and the price paid and the date.
  - 12.3 In respect of any Goods supplied by the Seller but manufactured by third parties, the benefit of any warranties or guarantees given to the Seller by such manufacturers or suppliers will wherever practicable be passed to the Buyer subject to the conditions upon which they were given.

## 13 GENERAL

- 13.1 The Seller does not warrant that the Goods conform with any Regulations in the United Kingdom or elsewhere, and the Buyer shall be responsible for ensuring the suitability of the Goods for the purpose or purposes for which he/she intends to use them. The Buyer shall not directly sell or send Goods to the United States of America without the express consent in writing of the Company.
- 13.2 Dimensions and other physical characteristics are subject to normal commercial tolerances, and the Buyer shall be responsible for ensuring the fitness of the Goods for the Buyer's application.
- 13.3 The Seller reserves the right to discontinue or alter the Goods without prior notice to the Buyer, and all orders are accepted subject to availability.
- 13.4 In the event that the Buyer intends to supply the goods to any person the Buyer shall ensure that all warnings, labels, instructions, manuals and any other information in respect of the Goods which are supplied with the Goods are not lost or damaged whilst the Goods are in the Buyer's possession or under the Buyer's control and that they are supplied with the Goods when they are released from the Buyer's possession or control.
- 13.5 The goods are subject to any patent, trade mark, registered design, copyright, or other right of any person.
- 13.6 Unless otherwise confirmed, nothing in this catalogue is to be taken as a representation of the source of original, manufacture or production of the Goods or any part thereof.

## 14 WAIVER

- Any waiver by the Seller of any breach of these conditions shall not be construed as a waiver of any other existing or future breach.

## 15 ARBITRATION

- If at any time any question, dispute or difference whatsoever shall arise between the Seller and the Buyer, upon, in relation to or in connection with the Contract, either party may give to the other notice in writing of the existence of such question, dispute or difference and the same shall be referred to arbitration in England by a person to be mutually agreed upon, or failing agreement by some person appointed by the President for the time being of the Law Society. The submission shall be deemed to be a submission to arbitration within the meaning of the Arbitration Acts 1950 and 1979 or any statutory modification or re-enactment thereof.

## 16 NOTICES

- Any notice required to be given hereunder shall be in writing and sent by pre-paid recovered delivery or by facsimile transmission (fax) and shall be deemed effective if sent by post at the expiration of 72 hours after the same was posted whether or not received or if sent by fax, 24 hours after despatch.

## 17 LEGAL CONSTRUCTION

- The Contract shall in all respects to be construed and operate as a contract governed by English law and unless otherwise agreed in writing is subject to jurisdiction of the English Courts.

## 18 DATA PROTECTION ACT 1998

- The seller will make a search with a credit reference agency for the purpose of all account applications and will keep a record of that search on your customer file. This information will be shared with other business for the purpose of credit references. We may also make enquiries about the principal directors with a credit reference agency. We will monitor and record information relating to your credit performance and such records will be made available to other organisations to assess applications for credit.

## 19 FORCE MAJEURE

- The seller will make every effort to carry out the contract in accordance with its terms but it shall not be liable for any failure on its part to perform any terms of the Contract from any cause outside the seller's control including (but without prejudice to the generality of the foregoing) Act of God, War, Strike, Weather, Lock out or other Industrial Dispute, Fire or Flood.