

POLAMCO LTD

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TERMS OF SALE

1	Interpretation	3.4	The Seller reserves the right to make any changes in the specification of the Products which are required to conform with any applicable regulatory requirements or, where the Products are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
1.1	In these Terms: "BUYER" means the person who accepts the Seller's written quotation for the sale of the Products or whose written order for the Products is accepted by the Seller; "PRODUCTS" means the products (including any instalment of the products or any parts for them) which the Seller is to supply in accordance with these Terms; "SELLER" means Polamco Limited (registered number 1784597); "CONTRACT" means the contract for the sale and purchase of the Products; "TERMS" means the standard terms of sale set out in this document and (unless the context otherwise requires) includes any special terms agreed in writing between the Buyer and the Seller;	4	Price of the Products
1.2	A reference in these Terms to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.	4.1	The price of the Products shall be the Seller's quoted price. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
1.3	The headings in these Terms are for convenience only and shall not affect their interpretation.	4.2	Except as otherwise stated in the Seller's written quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Products otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.
2	Basis of the sale	4.3	The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
2.1	The Seller shall sell and the Buyer shall purchase the Products in accordance with the Seller's written quotation (if accepted by the Buyer), or the Buyer's written order (if accepted by the Seller), subject in either case to these Terms, which shall govern the Contract to the exclusion of any other terms subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.	5	Terms of payment
2.2	No variation to these Terms shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.	5.1	Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller may invoice the Buyer for the price of the Products on or at any time after delivery of the Products, unless the Products are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Products, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Products are ready for collection or (as the case may be) the Seller has tendered delivery of the Products.
2.3	The Seller's employees or agents are not authorised to make any representations concerning the Products unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed, but nothing in these Terms affects the liability of either party for fraudulent misrepresentation.	5.2	The Buyer shall pay the price of the Products within 30 days from the date the invoice is issued and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Products has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
2.4	Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Products which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.	5.3	If the Buyer fails to make any payment on the due date then, without limiting any other right or remedy available to the Seller, the Seller may:
3	Orders and specifications	5.3.1	cancel the contract or suspend any further deliveries to the Buyer;
3.1	No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative.	5.3.2	appropriate any payment made by the Buyer to such of the Products (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
3.2	The quantity, quality and description of the Products and any specification for them shall be as set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).	5.3.3	charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of four per cent per annum above Lloyds TSB Bank plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
3.3	If the Products are to be manufactured or any process is to be applied to the Products by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with, or paid or agreed to be paid by the Seller in settlement of, any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.	6	Delivery
		6.1	Delivery of the Products shall be made by the Seller delivering the Products to such place as the parties have agreed for delivery. The Seller shall be under no obligation under section 32(2) of the Sale of Goods Act 1979.
		6.2	Any dates quoted for delivery of the Products are approximate only and the Seller shall not be liable for any delay in delivery of the Products however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in writing. The Products may be delivered by the Seller in advance of the quoted delivery date on giving reasonable notice to the Buyer.
		6.3	Where delivery of the Products is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 10 per cent more or 10 per cent less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.

6.4	Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Terms or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.	9	Indemnity
6.5	If the Seller fails to deliver the Products (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Products.	9.1	If a claim is made against the Buyer that the Products infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of a drawing, design or specification supplied by the Buyer, the Seller shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:
6.6	The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Products into the country of destination and for the payment of any duties on them	9.1.1	the Seller is given full control of any proceedings or negotiations in connection with the claim;
7	Risk and property	9.1.2	the Buyer shall give the Seller all reasonable assistance for the purposes of any such proceedings or negotiations;
7.1	Risk of damage to or loss of the Products shall pass to the Buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Products, the time when the Seller has tendered delivery of the Products.	9.1.3	except pursuant to a final award, the Buyer shall not pay or accept the claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);
7.2	Notwithstanding delivery and the passing of risk in the Products, or any other provision of these Terms, the property in the Products shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Products and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.	9.1.4	the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);
7.3	Until such time as the property in the Products passes to the Buyer, the Buyer shall hold the Products as the Seller's fiduciary agent and bailee, and shall keep the Products separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer may resell or use the Products in the ordinary course of its business.	9.1.5	the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
7.4	Until such time as the property in the Products passes to the Buyer (and provided the Products are still in existence and have not been resold), the Seller may at any time require the Buyer to deliver up the Products to the Seller and, if the Buyer fails to do so forthwith, enter on any premises of the Buyer or any third party where the Products are stored and repossess the Products.	9.1.6	without limiting any duty of the Buyer at common law, the Seller may require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.
7.5	The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) forthwith become due and payable.	10	Insolvency of buyer
8	Warranties and liability	10.1	This clause 10 applies if:
8.1	Subject as expressly provided in these Terms all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.	10.1.1	the Buyer makes a voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
8.2	A claim by the Buyer which is based on any defect in the quality or condition of the Products or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within seven days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Products and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Products had been delivered in accordance with the Contract.	10.1.2	an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
8.3	Where a valid claim in respect of any of the Products which is based on a defect in the quality or condition of the Products or their failure to meet specification is notified to the Seller in accordance with these Terms, the Seller may replace the Products (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Products (or a proportionate part of the price), in which case the Seller shall have no further liability to the Buyer.	10.1.3	the Buyer ceases, or threatens to cease, to carry on business; or
8.4	Except in respect of death or personal injury caused by the Seller's negligence, or liability for defective products under the Consumer Protection Act 1987, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Products (including any delay in supplying or any failure to supply the Products in accordance with the Contract or at all) or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Products, except as expressly provided in these Terms.	10.1.4	the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
8.5	The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Products, if the delay or failure was due to any cause beyond the Seller's reasonable control.	10.2	If this clause applies then, without limiting any other right or remedy available to the Seller, the Seller may cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Products have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
		11	General
		11.1	A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
		11.2	No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
		11.3	If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.
		11.4	The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the exclusive jurisdiction of the English courts save in respect of any enforcement proceedings.