

TERMS OF ORDER

1 Definitions

- 1.1 “Seller” means the person who supplies or agrees to supply Goods to the Buyer, as specified on the Buyer’s purchase order.
- 1.2 “Buyer” means Ogle Models and Prototypes Ltd
- 1.3 “Buyer’s place of business” means Birds Hill Letchworth Hertfordshire SG6 1JA
- 1.4 “Goods” means the Goods indicated on Ogle Models purchase order as the subject matter of the contract.
- 1.5 “Price” means the price as indicated on Ogle Models purchase order
- 1.6 “Condition” means an important term of the contract, any breach of which, regardless of seriousness, allows the party not in breach to terminate the contract, and/or reject the Goods supplied under the contract, and/or sue for damages for any loss caused.
- 1.7 Headings are not to be taken into account in interpreting this contract.
- 1.8 Any clause, or part thereof, which is or may be void or unenforceable shall be treated as severable from the remainder of this contract and shall not affect any other provisions of this contract.
- 1.9 “Writing” shall include fax, telex, and e-mail messages and “written notice” shall be construed accordingly.
- 1.10 Intellectual Property Rights” means patents, copyrights, registered and unregistered design rights, registered and unregistered trade and service marks, confidential information and such rights as are protected by the law of passing off.
- 1.11 “Materials” drawings, specifications, samples, tooling supplied by Ogle Models to the Supplier or compiled or constructed by the Supplier in accordance with Ogle Models instructions which form part of Ogle Models purchase order

2 Application of Terms

- 2.1 These terms of purchase shall apply to the contract between Ogle Models and the Supplier, to the exclusion of all other terms including those which the Supplier may purport to apply to any such transactions.
- 2.2 Unless acceptance occurs at any earlier date in time, despatch of Goods from Ogle Models to the Supplier shall be deemed to be conclusive evidence of acceptance of these terms.
- 2.3 Any variation of these terms must be agreed in writing by Ogle Models.

3 Nature and Quality of Goods

3.1 Specifications

It is a condition of this contract that the Goods supplied shall conform in all respects with all specifications and any other requirements communicated by Ogle Models to the Supplier, including any sample supplied by the Supplier to Ogle Models. Any changes to the specification must first be agreed in writing by Ogle Models.

3.2 Description

It is a condition of this contract that all Goods supplied will conform with the description given by the Supplier. "Description" shall be deemed to include all references to markings, labels, warnings, patterns and specifications.

3.3 Quality

It is a condition of this contract that all Goods supplied will be of satisfactory quality (as defined in the Sale and Supply of Goods Act 1994) and fit for all their common purposes.

3.4 Fit for OGLE Model's particular purpose

It is a condition of this contract that all Goods supplied will be fit for any particular purpose made known to the Supplier by Ogle Models.

4 Quantity

4.1 Subject to Clause 4.4 below, it is a condition of this contract that Ogle Models will deliver the exact quantity of Goods specified overleaf.

4.2 Subject to Clause 4.4 below, if the Supplier delivers a quantity less than the quantity specified overleaf, Ogle Models may elect:

- (i) to terminate the contract, or
- (ii) to accept the lesser quantity and pay for it at the contract rate, subject to a deduction of 5% of the contract price to compensate Ogle Models for any inconvenience caused.

4.3 Subject to Clause 4.4 below, if the Supplier delivers more than the quantity specified overleaf, Ogle Models may elect:

- (i) to accept and pay for all the Goods delivered at the contract rate,
- (ii) to accept and pay for the contract quantity and reject the excess, or
- (iii) to reject the whole quantity.

4.4 Any discrepancies in quantity of less than 1% shall be regarded as *de minimis*, and shall not entitle Ogle Models to terminate the contract or reject the Goods or sue for damages.

5 Title to Goods

5.1 Right to Sell

It is a condition of this contract that::

- (i) The Supplier has the right to sell the Goods to Ogle Models at the time of delivery, and
- (ii) the Goods sold will be free of all encumbrances, and
- (iii) Ogle Models will enjoy quiet possession of the Goods supplied.

5.2 Right to Indemnity on Infringement of Intellectual Property Rights.

Where Ogle Models ownership, possession, or use of the Goods infringes any other person's intellectual property rights, then the Supplier will indemnify Ogle Models for all resulting losses, expenses and liabilities.

6 Delivery

6.1 Time

It is a condition of this contract that Goods shall be delivered promptly on the date specified overleaf, or as varied by Ogle Models. If the Supplier fails to deliver the Goods on the specified delivery date Ogle Models may terminate the contract purchase the Goods from a third party and recover from the Supplier any excess cost so incurred.

6.2 Place of Delivery

Unless otherwise specified, the place of delivery shall be Ogle Models place of business. A delivery note quoting Ogle Models order number shall accompany the delivery of the Goods. An advice note or invoice bearing the same details as the delivery note shall be sent on the date of delivery by first class post.

6.3 Variation

Ogle Models reserves the right, by written notice, to vary the time and/or place of delivery, provided Ogle Models has given the Supplier reasonable notice. It shall be a condition of this contract that the Supplier will deliver in accordance with Ogle Models instructions.

6.4 Expenses

All expenses associated with delivery shall be for the Supplier's account.

6.5 Instalments

Ogle Models is not obliged to accept delivery by instalments.

6.6 Liquidated Damages

Where the Supplier fails to deliver the Goods in accordance with Clause 6.1 above, damages shall be payable at the rate of 10% of the value of any outstanding amount of the original order per week, or part thereof.

7 Payment of Price

7.1 The Price

The price payable shall be the price specified in Ogle Models purchase order. This Price is inclusive of VAT, taxes and all other duties.

7.2 Mode of Payment

The Price is payable in full 30 days after delivery of the Goods. Ogle Models shall be entitled to a discount of 10% of the Price if payment is made within 7 days of delivery.

7.3 Right of Set-off

Ogle Models may set-off against the Price any sums due from the Supplier to Ogle Models whether under this contract or others.

8 Passing of Property and Risk

8.1 Property

Property in the Goods supplied under this contract shall pass to Ogle Models at the time the contract is made, or at the very latest when the Goods are despatched to Ogle Models. Passing of property will not prejudice Ogle Models right to reject the Goods under Clause 9 below.

8.2 Risk

The Goods shall be at the Supplier's risk until the Goods are delivered in accordance with the terms of the contract.

9 Right to Reject and Replace

9.1 Right of Inspection

Ogle Models shall not be deemed to have accepted the Goods until it has inspected them to determine whether they comply with the contract.

9.2 Right to Reject

Ogle Models shall have the right to reject any or all of the Goods within 6 months of their delivery, for any breach of condition and withhold payment of the Goods.

9.3 Right to Demand Replacement

Where The Supplier has supplied Goods in breach of Clause 3 which are not in conformity with the contract, Ogle Models may elect:

- (i) to reject the Goods and terminate the contract, or
- (ii) to demand that the Supplier supply replacement Goods within a time specified by Ogle Models,

And in either case claim damages for all losses, expenses and liabilities incurred as a result of the Supplier's breach.

10 Right to Indemnity

The Supplier shall indemnify Ogle Models on a full indemnity basis against all claims by or liabilities to customers of Ogle Models arising out of any breaches by the Supplier of this contract.

12 Force Majeure

Ogle Models shall not be liable for any failure of performance due to act of God, war, strike, lock-out, industrial action, fire, flood, storm or any other event beyond the control of Ogle Models.

13 Waiver

Ogle Models may waive any of its rights under this contract without prejudice to any other rights under this or other contracts.

14 Cancellation

Ogle Models may, by written notice and at any time, cancel any order before delivery, without any liability to the Supplier.

15 Proper Law and Forum

15.1 This contract is governed by the law of England and Wales.

15.2 All disputes arising out of or connected with this contract shall be resolved by arbitration. The arbitrator shall be appointed by agreement of the parties or in default within 30 days by the President of the Law Society.

16 Copyright

16.1 Any Intellectual Property Rights in any Materials shall remain the exclusive property of Ogle Models and the Supplier shall keep and procure that those of its employees and agents who need access to the Materials for the purpose of fulfilling Ogle Models purchase order shall keep confidential the information contained within the Materials including any other information of a confidential nature which comes in to their possession whilst working on the purchase order.

16.2 The Materials shall not be used by the Supplier for any purpose other than the execution of Ogle Models purchase order and all Materials and other documents containing confidential information shall be returned to Ogle Models on completion of Ogle Models purchase order.