

# ML ACCESSORIES LTD.

## ML ACCESSORIES LIMITED

### STANDARD CONDITIONS OF SALE

#### (The “Conditions”)

1. **Application of Conditions**
  - 1.1. In these Conditions the “Seller” shall mean M L Accessories Limited, a company incorporated in England and Wales with company registration number 03500339 and includes any associated or subsidiary company thereof or any duly authorised agent. The “Buyer” shall mean the other contracting party with the Seller for the purpose of the “Goods” (as hereinafter defined);
  - 1.2. These are the conditions upon which the Seller offers and agrees to contract and no alteration whatever shall be valid unless previously agreed in writing between the parties to this agreement. No employee of the Company below the level of Managing Director shall have the authority to make any such alteration;
  - 1.3. In the event of conflict between these conditions and those of the Buyer (whether stated in the Buyer’s order or otherwise) these Conditions shall prevail;
  - 1.4. If the Seller having accepted an order from the Buyer (who will have previously been furnished with a copy of these Conditions) delivers to the Buyer any of the Goods (as hereinafter defined) ordered by the Buyer shall be deemed to have acknowledged and accepted these Conditions;
  - 1.5. The Uniform Law on International Sale of Goods and the Uniform Law on the Formation of Contracts for International Sales of Goods are expressly excluded from these Conditions.
2. **Enquiries and Order Procedures**
  - 2.1. All enquiries, applications for quotations and orders connected with any of the Goods (the “Catalogue Goods”) detailed in the catalogue, available at [www.mlaccessories.co.uk](http://www.mlaccessories.co.uk) (the “Catalogue”) should be made directly to the Seller. Contact details and methods of ordering can be found at [www.mlaccessories.co.uk](http://www.mlaccessories.co.uk);
  - 2.2. When ordering, the prospective Buyer should indicate the Catalogue Good’s number, the quantity required and a brief description as it appears in the catalogue;
  - 2.3. Any quotations given by the Seller shall not in any way constitute an offer to contract on these Conditions or any other terms;
  - 2.4. The Seller’s acknowledgement of the Buyer’s order (whether orally or in writing) shall constitute the Seller’s agreement to sell and supply the goods therein stated (the “Goods”) upon these conditions (the “Contract”);
  - 2.5. Each Contract shall be treated as a separate contract. If there shall be at any time more than one Contract in course of performance between the Seller and the Buyer any question, dispute and difficulty which may arise in respect of one of such Contracts, the terms on which any of such Contracts may be settled shall not affect in any way the performance of the other Contracts. Nor shall the Buyer be entitled to exercise in relation to any other such Contracts any right of set-off or counterclaim arising under one Contract.
3. **Delivery**
  - 3.1. The expression “delivery” used in these Conditions shall be deemed to take place when delivery is made to the Buyer’s address (or other such address as shall be agreed for delivery) and signature (by the Buyer, or a person in the Buyer’s employ or any other person acting upon the Buyer’s instructions) of the Seller’s standard form of acknowledgement of delivery shall be conclusive evidence of such delivery;
  - 3.2. Whilst every effort shall be made to ensure prompt delivery, any time or date for delivery (the “Delivery Date”) named by the Seller is an estimate only and the Seller accepts no liability whatsoever for delivery beyond the Delivery Date. The time for delivery shall accordingly be of the essence and any failure to adhere to the Delivery Date shall entitle the Buyer to claim damages or to rescind or cancel the Contract. The Goods may be delivered in advance of the quoted delivery date upon giving reasonable notice to the Buyer. The Seller accepts no liability whatsoever for any loss or expense suffered by the Buyer including any special consequential or indirect loss or damage as a result of any delay in or failure of delivery;
  - 3.3. If the Buyer does not receive the goods within 7 days of the Delivery date, the Buyer shall notify the Seller in writing of such non-receipt. Should the Buyer fail to notify the Seller, the Seller shall not be liable for the non-delivery of the Goods and the Buyer shall be liable to the Seller for any loss or damage the Seller may suffer in consequence of the Seller’s resultant omission to notify the carriers of the non-arrival of the Goods;
  - 3.4. The method of delivery shall be at the Seller’s absolute discretion;
  - 3.5. The Buyer shall accept part deliveries unless specifically agreed in writing;
  - 3.6. If the Buyer refuses to accept delivery for any reason whatsoever, then the Buyer shall nevertheless pay the Seller:
    - 3.6.1. the price; and
    - 3.6.2. any additional expenses incurred by the Seller as a result of such refusal including but not limited to any amounts payable by the Seller to its agents, employees or sub-contractors.
4. **Force Majeure**

The Seller shall not be liable for damage or injury to the Buyer for the delay in or failure of delivery or late delivery caused by conditions beyond the Seller’s control, including but not limited to fire, flood, strike or other labour disturbances, any war, terrorist attack, revolution, government act or embargo, inability to obtain raw materials and component supplies through normal channels at normal prices, or transportation or revocation of export and/or import licences. Delivery of the Goods may be totally or partially suspended by the Seller during any period in which the Goods cannot be produced or delivered by reason of any of the above causes.
5. **Packaging**
  - 5.1. The Seller shall provide adequate packaging commensurate with the method of delivery and the type and specification of the Goods;
  - 5.2. Until used, the Goods shall at all times remain in the packaging in which they are supplied and the Buyer shall ensure that the markings on such packaging are not altered or obliterated or obscured in any way. This is provided that this provision shall not apply if the Goods are supplied in bulk for repackaging in which case the Seller reserves the right to specify the type of packaging to be used and the markings on such packaging.
6. **Price and Payment**
  - 6.1. The price for the Goods (the “Price”) notified to the Buyer shall,
    - 6.1.1. In the absence of manifest error or omission and subject to these Conditions and in particular sub-clause 6.1.4 below, be final;
    - 6.1.2. The Price payable will be as shown on the website of the Seller at the time the order is placed or if ordering from the current catalogue, the current price list. For the avoidance of doubt the correct price should be the price notified to the Buyer upon acceptance of the order. While the Seller will ensure that all prices included on its website are accurate, it will be under no obligation to honour any website price if there is any difference due to typographical or other errors resulting in difference from actual price. If the Seller discovers an error in the Prices, it will inform the Buyer. The Buyer will have an option of reconfirming its order at the correct price or cancelling it in such case.
  - 6.1.3. Any other charges incidental to the transportation and delivery of the Goods shall be for the account of the Buyer;
  - 6.1.4. Notwithstanding sub-clause 6.1.1 above, the Seller reserves the right, at its absolute discretion, including but not limited to the reasons of market forces, to adjust the Price if the Seller suffers an increase in the cost to it of supplying the Goods, howsoever caused. The Seller will use its best endeavours to minimise any such adjustment and shall notify the Buyer of any adjustment as soon as reasonably practicable;
  - 6.2. The Prices are exclusive of delivery costs and VAT and any other tax or duty which must be added to the total price payable. VAT will be charged at the rate applicable at the time the order is accepted. The price shall be paid in accordance with the method of payment stipulated by the Seller and defined in sub-clause 6.3 and the time of payment shall be of the essence of the Contract;
  - 6.3. For the purpose of sub-clauses 6.2 and 6.4 “COD” shall mean that an invoice for the Goods shall be produced by the Seller to the Buyer shortly after delivery of the Goods which shall be paid in full upon delivery and in the form previously stipulated by the Seller to the Buyer in writing. On “account” shall mean that:-
    - 6.3.1. the Buyer shall be invoiced for the Price of the Goods delivered in any calendar month and any other sum from time to time due and owing by the Buyer to the Seller under these Conditions in the form of a statement (the “Statement”) made up to the end of the said calendar month (the “Statement Month”); and
    - 6.3.2. the Buyer shall pay the total amount specified in the Statement (the “Total Statement Amount”) prior to close of business on the last day of the month during the Statement Month. On “invoice” shall mean that:-
      - 6.3.3. the Seller shall invoice the Buyer for the Price of the Goods and any other sums from time to time due and owing by the Buyer to the Seller under these Conditions; and
      - 6.3.4. the total amount specified in the Invoice (the “Total Invoice Amount”) shall be paid prior to the date specified for payment in the Invoice which, unless otherwise stated in the Order Acknowledgment, shall be deemed payable prior to close of business on the last day of the month following the invoice date;
  - 6.4. Where payment for the Goods is on Invoice or on Account (both as defined in sub-clause 6.3 the Buyer shall pay the price in accordance therewith, notwithstanding that the Goods are being delivered by instalments and that any Goods remain to be delivered;
  - 6.5. Interest shall accrue on the non-payment of any amount on the due date(s) specified in sub-clause 6.3 from the specified date(s) of actual payment. The rate of interest applied to unpaid amount shall be 3% above the prevailing base rate as stated by Barclays Bank plc and the payment of interest shall be made upon the written demand of the Seller (a part of a month being treated as a full month for the purpose of calculating interest);
  - 6.6. Without prejudice to any other rights, the Seller reserves the right to suspend or cancel (or first suspend then cancel) further deliveries of the Goods under any Contract with the Buyer should the price or any part thereof not be paid by the relevant payment date(s);
  - 6.7. The Seller reserves the right to treat any of its new or existing customers as a Proforma Account holder whereby the total invoice for the Goods will require to be cleared funds with the Seller prior to despatch of the Goods;
  - 6.8. If payment is made by credit or debit card, the Seller reserves the right to apply 3% service charge to the total invoice cost of the order prior to the order being accepted and despatched;
  - 6.9. If payment is made by cheque, the Goods will not be delivered until the cheque has cleared to the Seller’s bank account. The Seller reserves the right to reduce a customer’s credit limit or remove credit facilities completely if payment is not made when due or when information comes to light of an adverse nature.
  - 6.10. All credit will only be given in the form of credit notes which can be used against further purchases and are not transferable.
7. **Specification**
  - 7.1. Specification and illustrations contained in or referred to by the Catalogue displayed on website are accurate at the time of the Catalogue’s publication;
  - 7.2. The Seller reserves the right to supply at its absolute discretion, without notice to the Buyer, modified and/or improved versions of any catalogue Goods including the Goods.
8. **Exclusion of other Terms**

Subject to the provisions of the Unfair Contract Terms Act 1977, all expressed or implied conditions and warranties, statutory or otherwise not included in these Conditions are relation to each Contract.
9. **Risk and Retention of Title**
  - 9.1. The property in the Goods shall remain vested in the Seller until the Seller has received payment in full of all monies due to the Seller under the Contract notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions;
  - 9.2. Risk of damage to or loss of the Goods shall pass to the Buyer:
    - 9.2.1. in the case of the Goods to be delivered at the Seller’s premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
    - 9.2.2. in the case of delivered otherwise than at the Seller’s premises, at the time of delivery, if the Buyer wrongfully fails to take delivery of the Goods the time when the Seller has tendered delivery of the Goods;
  - 9.2.3. Until payment has been made in full:
    - 9.2.4. the Buyer shall keep the Goods insured from the time the Goods are delivered against all risk to their full replacement value including injury to persons or damage to property;
    - 9.2.5. the Goods shall be clearly marked as the property of the Seller;
    - 9.2.6. the Seller or its agents may repossess the Goods and for this purpose the Buyer hereby grants to the Seller an irrevocable licence.
10. **Faulty Goods, Quantity Delivered and Acceptance of Goods**
  - 10.1. if any of the Goods upon delivery are shown to the satisfaction of the Seller, to be:
    - 10.1.1. defective and/or
    - 10.1.2. not delivered in the quantity ordered,
    - 10.1.3. the Seller at its option shall:
      - 10.1.3.1. in the case of sub-clause 10.1.1 above, either replace the defective Goods and pay the reasonable expenses incidental to such replacement or reimburse the Buyer the full Price thereof; and/or
      - 10.1.3.2. in the case of sub-clause 10.1.2 above, either deliver the balance of the Goods as soon as reasonably practical or require the Buyer to pay for such part of the Goods actually delivered at the price which is equivalent to that stated for each of the Goods in the Catalogue in issue at the date of Contract;
    - 10.2. The remedies in sub-clause 10.1 shall be affected by the Seller as soon as reasonably practical subsequent to written notice being given to the Seller of the alleged defects and/or variation in quantity. If the Seller has not received the said notice within seven days of the delivery date of the Goods by the Buyer, the Buyer shall be deemed to have accepted the Goods and sub-clause 10.1 hereof shall be of no effect;
    - 10.3. No return of Goods is accepted by the Seller unless the Seller has agreed in correspondence that the Buyer may return them. The returned Goods shall be accepted into the Sellers’ warehouse/office only if accompanied by an explicitly stated authorisation code as provided by the Seller prior to return. The procedure for return of Goods can be set out by the Seller at its sole discretion;
    - 10.4. The undertaking set out in sub-clause 10.1 hereof shall not apply to any of the Goods which have been:
      - 10.4.1. repaired or altered otherwise than by the Seller or its agents or not in accordance with the instructions of the manufacturer of the Goods;
      - 10.4.2. used to create composite products;
      - 10.4.3. subjected to any accident or damage, and/or
      - 10.4.4. improperly stored, maintained or used;
    - 10.5. If a sample of the Goods has been provided by the Seller to the Buyer prior to the placing of an order, provided that the Goods delivered shall be equal to such sample the Buyer shall take the Goods at his own risk as to the quality condition or sufficiency for any purpose and with all faults and imperfections. The Seller shall be under no liability to the Buyer for any technical or other defects;
    - 10.6. If any liability shall arise on the part of the Buyer for any loss or damage howsoever caused including but not limited to the negligence of the Seller or it’s suppliers, all such liability for loss or damage shall be limited to the replacement value of the Goods and in no event shall the Seller be liable for loss of profit or damage to plant or for consequential or special or indirect loss or damage sustained by the Buyer or any third party.
11. **Indemnity**
  - 11.1. The Buyer shall indemnify and hold the Seller harmless against any claim by or loss or damage to any person or property directly or indirectly occasioned by or arising from the use or operation of any of the Goods otherwise than in accordance with the Seller’s operating instructions or the instructions of the manufacturer of the Goods. This indemnity shall extend to any costs and expenses incurred by the Seller and shall continue in force notwithstanding the termination of sale and purchase arrangements between the Buyer and the Seller;
  - 11.2. The Buyer undertakes to ensure compliance by his servants or agents with any safety precautions or instructions for safe handling given by the Seller.
12. **Intellectual Property**

The Buyer acknowledges that the Seller gives no warranty, nor shall any be implied by any provision of these Conditions, that the Goods do not or will not constitute an infringement of any rights relating to patents, trade marks, registered designs, applications or any of the foregoing, trade or business names and copyright.
13. **Termination of Contract**
  - 13.1. Without prejudice to its rights to claim damages and to any other rights it may have at law or otherwise, the Seller shall have the right to rescind and to cancel any Contract forthwith, if subsequent to the date of the Contract, The Buyer:
    - 13.1.1. takes corporate action or applies to any court for its winding up or the appointment of a liquidator or a receiver or similar officer of all or part of the undertaking or assets of the Buyer or any liquidation, bankruptcy, insolvency, reorganisation or similar proceedings initiated by or against the Buyer; any jurisdiction; and/or
    - 13.1.2. makes default in or commits a breach of the Contract or any other of its obligations to the Seller;
  - 13.2. Should the Seller rescind or cancel the Contracts in accordance with sub-clause 13.1, the Seller may (without prejudice to any other remedies) repossess the Goods with or without prior notice and enter upon any premises under the control or the occupation of the Buyer in which the Goods may be for the purpose of repossession;
  - 13.3. Unless the Seller otherwise agrees in writing the Buyer shall not be entitled to cancel the contract resulting from these Conditions.
14. **Force majeure**

Failure in the exercise by the Seller of any right or power contained in these Conditions shall not operate as a waiver thereof or preclude or prevent any subsequent enforcement or insistence thereof (whether or not the Seller is aware of its rights or powers and whether or not the failure and delay occurs more than once).
15. **Severability**

If at any time anyone or more provisions of these Conditions is or becomes invalid, illegal, or unenforceable in any respect under any law the validity, legality and enforceability of the remaining provisions hereof shall not be in any way affected or impaired thereby.
16. **Notices**
  - 16.1. Any notice or other information required or authorised by this agreement to be given by either party to the other may be given by hand or sent by post, or electronic means to the other party at the address last provided for that type of communication;
  - 16.2. Any notice or other information given by post shall be deemed to have been given on the third day after it was posted; and proof that the envelope containing any such notice or information was properly addressed, pre-paid, registered and posted, or that it has not been so returned to the sender, shall be sufficient evidence that it has been duly given;
  - 16.3. Any notice or other information sent by electronic means shall be deemed to have been duly sent on the date of transmission;
  - 16.4. Service of any legal proceedings concerning or arising out of this agreement shall be affected by causing the same to be delivered to the party to be served at his main place of business or its registered office, or to such other address as may from time to time be notified in writing by the party concerned.
17. **Law and Jurisdiction**

These conditions shall be governed by and construed in accordance with UK law, and the Buyer agrees that any legal action or proceeding arising out of or in connection with these Conditions may be brought at the High Court of Justice in England and the buyer irrevocably submits to the non-exclusive jurisdiction of that court.