

Gullwing Ltd

terms & conditions

1. GENERAL. All orders for goods (the "Goods") to be supplied by Gullwing Ltd or any of its subsidiary companies as the case may be (hereinafter referred to as the "Company") are subject to these conditions of sale and the placing of an order by a buyer ("the Buyer") will constitute acceptance of these conditions.
2. These conditions may not be modified or varied unless the Company agrees in writing and the Company will not be deemed to accept any other conditions nor waive any of these conditions by failing to object to provisions contained in any purchase order or other communications from the Buyer. No person has authority on behalf of the Company to vary any conditions except by a written variation signed by a Director or the Company Secretary.
3. VALIDITY OF QUOTATIONS. Quotations from the Company are stated to be open for such time as may be specified in each such quotation and provided it is not withdrawn by the Company in such period it remains capable of acceptance. No binding contract will be created by the acceptance by the Buyer of the Company's quotation until notice of such acceptance has been given in a purchase order and has either been signed by the Company's duly authorised representative or the Company has indicated to the Buyer orally or in writing its acceptance of such order.
4. If the Buyer places an order with the Company without requesting a quotation from the Company or before such quotation has been provided, all deliveries carried out in satisfaction of such order will be subject to these conditions.
5. NEW ACCOUNTS. Buyers are requested to make purchases by telephone using a credit card or via our website. Buyers wishing to open a credit account are requested to complete and sign an Application for Credit Account form ("Application Form"). The Proprietor(s), Partner(s) or an authorised employee (if a Limited Company), must sign the Application Form. Application forms must be submitted with the last twelve months of audited accounts. Until an Application Form has been received and a credit account approved [in writing], orders will not be accepted until cleared funds have been received. Credit accounts are subject to a minimum spend of £500.00 GBP per order.
6. SETTLEMENT TERMS. Unless otherwise agreed by the Company in writing, accounts are payable in full prior to delivery of the Goods taking place. If the Buyer has exceeded any agreed credit terms, the Company may demand immediate payment of all amounts outstanding from the Buyer to the Company on any account. The Company reserves the right to withdraw credit at any time and demand immediate payment of all monies outstanding.
7. The Company, at its discretion, shall be entitled to exercise its statutory right to claim interest under the Late Payment of Commercial Debts Regulations 2002, as modified or re-enacted from time to time. The Company may exercise this right, in addition to any other rights it may have in respect of Goods or non-payment.
8. Where the contract is to be or may be fulfilled in separate installments, deliveries or parts, payment for each such installment delivery or part will be made as if the same constituted a separate contract. Failure by the Buyer to pay for an installment in accordance with this clause will entitle the Company without prejudice to its other rights and remedies to suspend further deliveries of Goods under any other contract to the Buyer, pending payment by the Buyer.

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9. The Buyer will indemnify the Company against all cost, losses and liability including but not limited to all legal expenses and disbursements incurred by the Company in recovering any amount which is overdue from the Buyer to the Company pursuant of the Agreement or otherwise.

10. PRICES. Unless otherwise agreed in writing all orders are executed subject to prices and any relevant discounts ruling at the date of receipt of the order and any price list of the Company whether published or not will not affect the right of the Company to charge for Goods in accordance with this clause. All prices are subject to the addition of Value Added Tax at the appropriate rate.

11. In the event of termination, variation or suspension of a contract on the Buyer's instruction or by lack of instruction, the contract price will be adjusted to reflect the additional costs incurred by the Company. Where a price per unit has been quoted and the Buyer requires a smaller number of units to be delivered than those quoted for, the Company reserves the right to adjust the rates of prices applicable thereto.

12. CREDIT. Any contract will be subject to the Company being satisfied as to the Buyer's credit worthiness and without prejudice to the generality of the foregoing the Company may in its absolute discretion, having informed the Buyer that the Goods are ready for delivery, refrain from delivering the Goods until such time as the Buyer tenders the purchase money to the Company in a form satisfactory to the Company.

13. ORDERS. The Buyer may place orders on our website or by post, fax, e-mail or telephone.

14. Where orders are sent by post fax or e-mail in confirmation of telephone instructions the Buyer will ensure they are clearly marked as such, failing which any additional expense incurred by the Company as a result of duplication of orders will be charged to the Buyer.

15. DELIVERY. Delivery dates (if any) given by the Company are given in good faith to indicate estimated delivery times but will not amount to any contractual obligation to deliver at the times stated. The Company will not be liable for any loss including (but not limited to) loss of profit, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence) nor unless any delay exceeds 180 days will such delay entitle the Buyer to terminate or rescind the contract.

16. Failure by the Company to deliver any one or more (but not all) installments in accordance with this contract will not entitle the Buyer to treat this contract as repudiated.

17. If the Buyer fails to take delivery of any of the Goods when they are ready for delivery, or fails to provide any instructions or authorisations required to enable Goods to be delivered on time the Goods will be deemed to have been delivered and (without prejudice to its other rights) the Company may:-

17.1 - store the Goods until actual delivery or sale and charge the Buyer for all related costs and expenses (including, without limitation, storage and insurance); and/or 17.2 - following written notice to the Buyer, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the price agreed with the Buyer.

18. PASSING OF TITLE/RISK. Risk of damage to or loss of the Goods will pass to the Buyer upon delivery.

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19. Ownership of the Goods will not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and all other sums which are or which become due to the Company from the Buyer on any account.

20. Until ownership of the Goods has passed to the Buyer, the Buyer must:

20.1 hold the Goods on a fiduciary basis as the Company's bailee;

20.2 store the Goods (at its own cost) separately from all other goods of the Buyer or any third party so that they are identifiable as the Company's property;

20.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

20.4 maintain the Goods in satisfactory condition insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer will produce evidence of the policy of insurance to the Company; and

20.5 hold any proceeds of such insurance on trust for the Company separately from any other money, and not pay the proceeds into an overdrawn bank account.

21. The Buyer may resell the Goods before ownership has passed to it provided such sale is:

21.1 in the ordinary course of the Buyer's business at full market value and the Buyer will account to the Company accordingly; and

21.2 on the Buyer's own behalf and the Buyer deals as principal when making such sale.

22. If the Company cannot determine which goods are the Goods, the Buyer will be deemed to have sold all goods sold by the Company to the Buyer in the order which they were invoiced to the Buyer.

23. The Company will be entitled to recover payment for the Goods notwithstanding that ownership of any Goods has not passed from the Company.

24. The Buyer grants the Company, its agents and employees an irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

25. DELIVERY/CARRIAGE The cost of 2-3 day delivery to a single address within mainland UK is deemed to be included within the price if ordered from our website. All other deliveries are chargeable and price is available upon application. All orders for Next Day service must be placed by 3pm on date of order to qualify for Next Day service and will be delivered the next working day thereon or the following day after if 3pm deadline has passed. Saturdays and Sundays are not applicable to any delivery service we offer.

26. DAMAGE IN TRANSIT AND SHORTAGES. The Company will repair or replace free of charge, Goods damaged in transit provided that the Company and its designated carriers receive written notification of such damage within three days of delivery. Goods received in a damaged or unsatisfactory condition must be signed for as such and evidence of damage supplied to the Company.

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27. On receipt Goods should be checked by the Buyer with the advice note enclosed with the Goods. Shortage claims will be considered if the Company and its designated carriers receive written notification of any such shortage within 3 days of delivery failing which no liability will be admitted. In any such case, the packaging and contents should be retained for inspection.

28. RETURNS. Goods correctly supplied may be returned (at the buyer's expense) with the Company's written agreement. Goods so returned must be consigned carriage paid and accompanied by a packing note stating the recipients invoice/order number and date thereof together with the reason for return. Goods supplied in error returned for exchange will be shipped back to the buyer at the Company's expense. Goods returned due to incorrect supply, damage or failure should be sent following the Company's return instruction, using a Returns Form and Return Authorisation Number (issued by the Company's customer service department).

29. If the Goods (or any of them) are returned and are subsequently lost in transit the Company will only issue credit if it can be conclusively proved that the Company or its agents have actually removed the Goods from the Buyer's premises.

30. DESCRIPTIVE MATTER, SPECIFICATIONS AND ILLUSTRATIONS. All descriptive and forwarding specifications, drawings and particulars of weights and dimensions issued by the Company are approximate only and intended only to present a general idea of the goods to which they refer and will not form part of the contract. All particulars are provided by the manufacturer.

31. The Company's policy is one of continuous improvement and it reserves the right to make reasonable changes to product specifications at its discretion. When placing an order with the Company, the Buyer must satisfy himself that the Company's then current specification of all the Goods is appropriate for its (or its customer's) requirements.

32. Any quotation includes only such Goods accessories and work in the quantities and to the specifications, which are stated therein.

33. The Company's total liability in contract tort (including negligence or breach of statutory duty) misrepresentation or otherwise, arising in connection with the performance of this contract will be limited to the price agreed for the Goods.

34. The Company will not be liable to the Buyer by reason of any representation or any implied warranty, condition or other term, or any duty at law or under the express terms of contract for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation (whether caused by the negligence of the Company, its employees, agents or subcontractors) which arise out of or in connection with this contract.

35. VALUE ADDED TAX Where chargeable Value Added Tax will be charged at the rate applicable at the date the Goods are dispatched.

36. LEGAL CONSTRUCTION. Unless otherwise agreed by the Company in writing, these conditions will in all respects be construed and operate as an English contract, in conformity with English Law, and the parties submit to the exclusive jurisdiction of the English courts.

37. Any provision of this contract which is held by any competent authority to be invalid, void, voidable, unenforceable or unreasonable (in whole or part) will to the extent of such

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invalidity, voidance, unenforceability or unreasonableness be deemed severable and the other provisions of this contract and the remainder of such provisions will not be affected.

38. Failure by the Company to enforce or partially enforce any provision of this contract will not be construed as a waiver of any rights under this contract.

39. SAMPLES. Any samples submitted to the Buyer at the Buyer's request must be returned to the Company in good condition within ninety days of receipt or such shorter period as the Company may specify. The Company may charge the market value of all samples not so returned. Such market value will be the market value on the date when the sample was due to be returned.

40. CANCELLATION OF AN ORDER. The Company reserves the right to refuse to accept any cancellation of an order unless notification in writing is given to the Company and accepted in writing by the Company. In the event of any cancellation the Buyer must pay expenses incurred by the Company.

41. CERTIFICATION. A buyer requiring Goods from a quality assured source or certificates of conformity must specify its requirements in writing at the time of placing the order.

42. FORCE MAJEURE. The Company will not be liable to the Buyer in any matter or be deemed to be in breach of this contract because of any delay in performing or any failure to perform any of the Company's obligations under this contract if the delay or failure was due to any cause beyond the Company's reasonable control.

43. Without prejudice to the generality of condition 44 the following will be included as causes beyond the Company's reasonable control:

44. governmental actions, war, threat of war, national emergency, riot, civil disturbance, sabotage or requisition;

44.1 Act of God, fire, explosion, flood, epidemic or accident;

44.2 Import or export regulations or embargoes;

44.3 Labour disputes not including disputes involving the Company's workforce; or

44.4 Inability to obtain or delay in obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour.

END

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