



# DUPLEX CSA OPTIC LIMITED

## TERMS AND CONDITIONS OF SALE

### 1. INTERPRETATION

1 : 1 In these Conditions:-

“**The Company**” means DUPLEX CSA OPTIC Limited

“**Products**” means the Products which the Company is to supply in accordance with these Conditions.

“**The Customer**” means the person who accepts the quotation of the Company for the sale of the Products of whose order for the Products is accepted by the Company.

“**Conditions**” means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires includes and special terms and conditions agreed in writing between the Customer and the Company. In the event of conflict between these Conditions and any such special terms and conditions, the special terms and conditions shall prevail.

“**Contract**” means the contract for the purchase and supply of the Product.

1 : 2 Any reference in these Conditions to any provision or statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time.

1 : 3 The headings in these Conditions are for convenience only and shall not affect any interpretation.

### 2. THE SALE

2 : 1 The Company shall sell and the Customer shall purchase the Products in accordance with any order of the Customer which is accepted by the Company subject to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made by the Customer.

2 : 2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Company.

2 : 3 Any typographical clerical or other error or omission in any sales literature quotation price list acceptance of offer invoice or other documents or information issued by the Company shall be subject to correction without any liability on the part of the Company.

### 3 THE ORDER AND SPECIFICATIONS

3 : 1 No order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company's authorised representative.

3 : 2 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of the order (including any specific requirement of the Products submitted by the Customer).

### 4. PRICE

4 : 1 The price of the Products shall be the Company's quoted price or where no price has been quoted (or a quoted price is no longer valid) the price listed in the Company's published price list current at the date of acceptance of the order. All prices quoted are valid for thirty days only until earlier acceptance by the Customer, after which time they may be altered by the Company without giving notice to the Customer.

4 : 2 The price is exclusive of the cost of delivery.

4 : 3 The price is exclusive of any Valued Added Tax which the Customer shall be additional liable to pay to the Company.

### 5. TERMS OF PAYMENT

5 : 1 The Customer shall pay the price of the Products on delivery or at the option of the Company within 30 days of the date of the Company's invoice (which the Company shall be entitled to submit to the customer on or after delivery or attempted delivery of the Products) and payment of such invoice shall take place notwithstanding that delivery may not have taken place and that title in the Products has not passed to the Customer.

- 5 : 2 The time for payment of the price shall be the essence of the Contract.
- 5 : 3 Receipts for payment will be issued only upon request.
- 5 : 4 If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to charge the Customer interest (both before and after to charge the Customer interest ( both before and after any judgement) on the amount unpaid at the rate of 3% per annum above current 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).

## **6. DELIVERY**

- 6 : 1 Delivery of the Products shall be made by the Company delivering the Products to the Customer's premises or by the Buyer collecting the products at the Company's premises at any time after the Company has notified the Customer that the Products are ready for collection.
- 6 : 2 Any dates quoted for delivery of the Products are approximate only and the Company shall not be liable for any delay in delivery of the Products howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Company in writing.
- 6 : 3 If the Company fails to deliver the Products for any reason other than any cause beyond the Company's reasonable control or the Customer's fault, and the Company is accordingly liable to the Customer the Company's liability shall be limited to the excess (if any) of the cost to the Customer in the cheapest available market of similar Products to replace those not delivered over the price of the Products.
- 6 : 4 Where the Products are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Company to delivery any one or more instalments in accordance with these Conditions shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 6 : 5 All products are sent carriage or postage paid which is charged additionally.
- 6 : 6 In the event of the Company being unable to ship product or directly release product to a customer's carrier due to the Customer failing to provide sufficient information, the Company reserves the right to levy a storage charge based upon any cost incurred in maintaining and holding the product either at the Company's facilities or at third party warehouse.

## **7. RISK AND PROPERTY**

- 7 : 1 Risk of damage to or loss of the Products shall pass to the Customer:
- 7 : 1:1 In the case of Products to be delivered at the Company's premises at the time when the Company notifies the Customer that the Products is available for collection or,
- 7 : 1:2 In the case of Products to delivered otherwise that at the Company's premises at the time of delivery or if the Customer wrongfully fails to take delivery of the Products the time when the Company has tendered delivery of the Products.
- 7 : 2 Notwithstanding delivery and the passing of risk in the Products or any other provision of these Conditions the property in the Products shall not pass to the Customer until the Company 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 Company to the Customer for which payment is then due.
- 7 : 3 Until such time as the property in the Products passes to the Customer, the Customer shall hold the Products as the Company's fiduciary agent and bailee and shall keep the Products separate from those of the Customer and third parties and properly stored, protected and insured and identified as the Company's property. Until that time the Customer shall be entitled to resell or use the Products in the ordinary course of its business, but shall account to the Company for the proceeds of sale or otherwise of the Products, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Customer and third parties.
- 7 : 4 Until such time as the property in the Products passes to the Customer (and provided the Products are still in existence and have not be resold) the Company shall be entitled at any time to require the Customer to deliver up the Products to the Company, and if the Customer fails to do so to enter upon any premises of the Customer or any third party where the Products are stored and repossesses the Products.

## **8. WARRANTIES AND LIABILITY**

- 8 : 1:1 Subject as expressly provided in these Conditions (and except where the Products are sold to a person dealing as a consumer within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms applied by statute or common law are excluded to the fullest extent permitted by law.
- 8 : 1:2 Where the products are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Customer are not affected by these conditions.
- 8 : 2 The Company warrants the Products will be of satisfactory quality and fit for any purpose made know to the Company in writing and will correspond to any relevant specification or sample thereof.
- 8 : 3 The above warranty is given by the Company subject to the following conditions:-
- 8 : 3:1 The Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing) misuse or alteration or repair or the Products without the Company's approval; and
- 8 : 3:2 the Company shall be under no liability under the above warranty or any other warranty, guarantee or condition if the total price for the Products has not been paid by the due date for payment; and
- 8 : 3:3 Products which deteriorate in quality if not used before a certain date are clearly marked with an expiry date ("The Shelf Life") and all Products which are marked with the Shelf Life must be used before the expiry of their Shelf Life and the Company shall be under no liability in respect of any defect in the Products where such Products are used after the expiry of their Shelf Life.

- 8 : 4 Any claim by the Customer which is based on any defect in the quality or condition of the Products or its failure to correspond with its specification shall be notified to the Company within 7 days of the discovery of the defect or failure. If the Customer does not notify the Company accordingly the Customer shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Products had been delivered in accordance with the Contract.
- 8 : 5 Where any valid claim in respect of the Products which is based on any defect in the quality or condition of the Products or their failure to meet specification is notified to the Company in accordance with these Conditions, the Company shall be entitled to replace the Products (or the part in question) free of charge, or at the Company's discretion refund to the Customer the price of the Products (or a proportionate part thereof).
- 8 : 6 The Company shall not be liable to the Customer 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 Company's obligations in relation to the Products if the delay or failure was due to any cause beyond the Company's reasonable control and inter alia and without prejudice to the generality of the foregoing strikes, lockouts or other industrial act or trade disputes, whether involving employees of the Company or a third party shall be regarded as causes beyond the Company's reasonable control.
- 8 : 7 The Company shall not be liable to the Customer for any indirect loss and / or expenses (including loss of profit) suffered by the customer arising out of a breach of the Contract.
- 8 : 8 In the event of any breach of the Contract by the Company the remedied of the customer shall be limited to damages. Under no circumstances shall the liability of the Company exceed the price of the Products.

## **9. INSOLVENCY OF THE CUSTOMER**

- 9 : 1 This clause applies if:-
- 9 : 1:1 the Customer makes any voluntary arrangement with its creditors or become subject to an administration order or being an individual or firm becomes bankrupt or being a company goes into liquidation but other than for the purpose of amalgamation or reconstruction; or
- 9 : 1:2 an encumbrancer takes possession of or a receiver is appointed of any property or assets of the Customer; or
- 9 : 1:3 the Customer ceases or threatens to cease to carry on business; or
- 9 : 1:4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 9 : 2 If this clause applied then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend delivery under the Contract without any liability to the Customer and if the Products has been delivered, but not paid for the price shall immediately become due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 9 : 3 Cancellations – orders can not be cancelled without written consent of Duplex CSA Optic Limited. Orders cancelled within one week of order date will be subject to 2.5% cancellation charge. Orders cancelled beyond 1 week of order date may be subject to the cancellation charge up to 100% of order value.

## **10. GENERAL**

- 10 : 1 Any notice required or permitted to be given by either party to the other under the Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may be at the relevant time have been notified pursuant to this provision to the party giving notice and such notice shall be deemed to have been received immediately in the case of a facsimile transmission / email or on the first business day thereafter if the date of transmission was not a business day and 24 hours after posting if sent by first class pre-paid class or the first business day thereafter if the date of deemed reception was not a business day.
- 10 : 2 No waiver by the Company or any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10 : 3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.
- 10 : 4 The Contract shall be governed by the laws of and subject to jurisdiction of the Courts of England and Wales.