

## Conditions of Sale

### 1. Interpretation

In these conditions

"Buyer" means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller:

"Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller:

"Contract" means the contract for the purchase and sale of the Goods.

"Goods" means the goods (including any instalment of the goods or any parts of them) which the Seller is to supply under a Contract in accordance with these Conditions:

"Seller" means Guala Closures UK Limited, Old Mill Park Estate, Kirkintilloch, Glasgow G66 1ST:

and

"Writing" includes email, telex, cable, facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time. The headings in the Conditions are for convenience only and shall not affect their interpretation.

### 2. Basis of the Sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions 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. Without prejudice to the generality of the foregoing, the Seller will not be bound by any standard or printed terms furnished by the Buyer in any of its documents, unless the Buyer specifically states in writing separately from such terms that it intends such terms to apply and the Seller accepts such notification and agrees in writing that the Buyer's terms are to apply.

2.2 No variation, waiver or addition to these Conditions shall be binding unless agreed in Writing by the Seller or its authorised representative.

2.3 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 Goods 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.

2.4 If subsequent to any Contract between the Buyer and the Seller into which these Conditions are incorporated, any contract for the supply of goods similar to the Goods is made between the same parties whether the same is in Writing or orally without express reference to the Condition, such contract shall be deemed to be subject to these Conditions.

### 3. Orders and Specification

3.1 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order for the Goods (including any applicable specification, designs or drawings complying with all applicable health and safety regulations and complying with all statutory and other legislative requirements) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time period to enable the Seller to perform the Contract in accordance with the Conditions.

3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted in all respects by the Seller). Where the Seller's quotation contains documents and particulars produced by the Seller including, without prejudice to the foregoing generality, illustrations, designs, drawings, technical specifications and ratings such documents and particulars shall be deemed to be approximate only unless a statement to the effect that they are final and definitive is expressly made. The Buyer undertakes to observe strict secrecy with such documents and particulars and the Seller reserves all rights to copyright and all other industrial property rights including the ownership of the actual documents submitted.

3.3 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification, design or drawing submitted by the Buyer or prepared by the Seller and approved by the Buyer, the Seller shall be entitled to cease to manufacture any of the Goods which appear to be an infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any person, firm or Company. In such event the Buyer shall pay the Seller the value of work done on and the materials used in the manufacture of the Goods prior to cessation of work together with a reasonable proportion of the Seller's anticipated profit on the Contract and shall and by acceptance of the Conditions does hereby indemnify the Seller against all claims made by any person against the Seller arising out of such infringement and all costs, expenses and other losses arising therefrom.

3.4 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements whether of the country of manufacture or of the country in which the Goods are to be sold, or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance. Where the Buyer requires any alteration to be made to the design of the Goods the Buyer shall pay for any additional work which is necessary.

3.5 No order which has been accepted by the Seller shall be cancelled in whole or in part or otherwise modified by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of such cancellation or modification.

3.6 Unless otherwise agreed in Writing by the Seller, no order shall be accepted by the Seller from the Buyer for Goods for a value of less than One Thousand Pounds Sterling (exclusive of Value Added Tax).

### 4. Price of the Goods

4.1 The price of the Goods shall be the Seller's quoted price ex works. All prices quoted are valid for thirty days only or until earlier acceptance by the Buyer or for such longer time as may be agreed, after which time they may be altered by the Seller on giving notice to the Buyer.

4.2 The price of the Goods is exclusive of any applicable Value Added Tax, or similar sales tax which the Buyer shall be additionally liable to pay to the Seller and shall be payable in pounds (£) Sterling

### 5. Terms of Payment

5.1 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after the delivery of the Goods, unless the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has tendered delivery of the Goods.

5.2 The Buyer shall pay the price of the Goods by the twentieth day of the month following the date on which the Seller's invoice was rendered notwithstanding that delivery may not have taken place and the property in the Goods 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.

5.3 In any case where the Goods require to be manufactured or assembled by the Seller, then, in respect of any part of such Goods, if the Seller shall notify the Buyer in Writing of completion of part of the Goods payment of such part of the price as relates to the completed part of the Goods shall become due and payable on the terms in Condition 5.2 notwithstanding that the remainder of the Goods shall not have been completed.

5.4 If the Buyer fails to make any payment of the price or any other sum due to the Seller in accordance with Condition 5.2 including where the Buyer may be liable to reimburse the Seller on the due date in terms of the Conditions then, without prejudice to any other right or remedy available to the Seller the Seller shall be entitled to:-

5.4.1 cancel the Contract or suspend any further deliveries to the Buyer:

5.4.2 appropriate any pre payment made by the Buyer for the Goods (or any 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

5.4.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of two per cent per annum above The Royal Bank of Scotland 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 Goods shall be made by the Seller delivering the Goods to the Buyer (or any third party appointed by the Seller for such purpose) by any method of transport or despatch from the Seller's place of business to the Buyer's premises or other destination intimated by the Buyer to the Seller in Writing not later than 48 hours prior to the Goods being despatched.

6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in Writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 Where the Goods 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 Conditions 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.

6.4 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, the Seller's liability (if any) 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 above the price of the Goods.

6.5 The Buyer must notify the Seller of any shortfall in the quantity of the Goods delivered within 48 hours from receipt of delivery, otherwise the Buyer will be deemed to have received the correct quantity of Goods ordered.

6.6 The Seller reserves the right to deliver up to 5 per cent less than the quantity ordered without making an adjustment to the price, and the quantity so delivered shall be deemed to be the quantity ordered by the Buyer

6.7 In the event that the Seller delivers up to 5 per cent more than the quantity ordered, the Buyer shall not be entitled to reject the excess of Goods delivered and the price payable by the Buyer for such Goods shall be equal to the price payable by the Buyer for the original quantity ordered.

6.8 In the event that the Seller delivers in excess of 5 per cent more than the quantity ordered, as provided in Condition 6.7, the Buyer shall have the right to purchase the Goods delivered by the Seller in excess of the 5 per cent at such price agreed between the parties, otherwise the parties shall agree on the appropriate action to be taken in respect of such quantity in excess of the 5 per cent.

6.9 In the event that the Seller delivers less than 95 per cent of the quantity ordered, the Seller shall deliver such balance of the Goods ordered to the Buyer and the price payable by the Buyer for such Goods shall be equal to the price payable by the Buyer for the original quantity ordered.

6.10 Unless agreed otherwise in Writing by the parties, the Seller reserves the right to supply the Goods ordered by the Buyer to the nearest box count within the tolerance levels provided at Condition 6.6 and 6.7 above.

6.11 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions in terms of Condition 6.1 above (otherwise than by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.11.1 store the Goods or arrange for them to be stored until actual delivery and charge the Buyer for the costs (including insurance) of storage (which the Buyer shall pay to the Seller on demand); and/or

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6.11.2 arrange for the Goods to be delivered back to the Seller in which event the Buyer shall be liable for all costs and charges arising in connection therewith which shall be due and payable by the Buyer on the terms herein before stated: and/or

6.11.3 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage, delivery, selling and other expenses) charge the Buyer for any shortfall below the price under the Contract. In the event in there being a shortfall the Buyer will reimburse the Seller the total amount of such shortfall within Seven days of the Seller giving notice in Writing to the Buyer of the amount of the shortfall and if payment of the shortfall is not received by the Seller within Seven days the Seller shall be entitled to charge the Buyer interest in accordance with Condition 5.4.3.

6.12 Unless otherwise agreed in Writing by the Seller, in the event that the Buyer has ordered Goods with a value in excess of £5000, the Seller shall store the Goods on behalf of the Buyer, pursuant to Condition 6.11.1 for a period of three months from the due delivery date, after which time, the Seller shall retain the Goods and have the right to charge the Buyer for the total cost of the Goods being held in storage and the Buyer shall be required to make payment of such Goods within thirty days of receipt of an invoice from the Seller for such sums payable.

6.13 In the event that the Seller agrees in Writing to extend the period for which the Seller shall store the Goods in accordance with Condition 6.12, and on expiry of the extended term the Buyer has failed to take delivery of the Goods, the Seller shall retain the Goods and charge the Buyer for the total cost of the Goods held in storage on expiry of the extended period.

### 7. Risk and Property

7.1 Risk in the Goods shall pass to the Buyer at the earlier of the date of payment or the time of delivery to the Buyer, its agents or contractors or, if the Buyer fails to take delivery of the Goods, at the time when the Seller has tendered delivery of the Goods or, if the Buyer fails to provide delivery instructions when the Seller intimates that delivery can take place.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in and title to the goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods.

7.3 Until such times as the property of the Goods passes to the Buyer (a) the Buyer is obliged to store the Goods (so far as unused) in such a manner that they can be identified as having been supplied under a Contract in accordance with these Conditions and (b) (provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods subject to making good any damage thereby caused.

### 8. Termination of the Contract

8.1 In the event of:

8.1.1 any default of the Buyer in respect of the Conditions: or

8.1.2 the Buyer (being a body corporate) going into liquidation (otherwise than for the purpose of amalgamation or reconstruction), having a receiver appointed over any of its assets or undertaking or becoming subject to an administration order or any other insolvency proceedings: or

8.1.3 the Buyer (being an individual or partnership) becoming apparently insolvent, bankrupt or granting a trust deed for its creditors: or

8.1.4 the Buyer making any composition with its creditors or ceasing or threatening to cease carrying on business:

or

8.1.5 the Seller reasonably apprehending that any of the events mentioned in Conditions 8.1.1 to 8.1.5 above is about to arise in relation to the Buyer and notifying the Buyer accordingly, then, without prejudice to any other right or remedy available to the Seller, the Seller shall have the option, but will not be under any obligation, to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer. If the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and if the Buyer fails to pay the price the Seller shall be entitled to immediate return of all the Goods and the rights and obligations provided in Condition 7.3 shall apply. This Condition 8.1 shall apply equally against the Buyer and any such trustee, receiver, liquidator or administrator of the Buyer referred to above.

### 9. Warranties and Liability

9.1 Subject as expressly provided in these Conditions, except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977 as amended), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.2 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified in Writing to the Seller within 28 days from the date of the delivery or deemed delivery.

9.3 Where any claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified in Writing to the Seller in accordance with these Conditions and the same Goods are returned to the Seller, with transport costs paid and Goods being undamaged, within 14 days of the date of the said claim, the Seller shall be entitled to a reasonable opportunity of inspecting the Goods in their alleged defective state and then, if the Seller accepts the claim as valid, to issue a credit note for the Goods (or the part in question), but the Seller shall have no further liability to the Buyer. The Seller shall have no liability to the Buyer if, upon examination of the Goods the Seller forms the reasonable opinion that the alleged defect was attributable to the design submitted or approved, by the Buyer or due to overloading, misuses, fair wear and tear, neglect, accident, failure to properly maintain, wilful damage, abnormal working conditions or failure to follow the Seller's instructions.

9.4 If the Goods are altered, adapted or repaired by any person other than one authorised by the Seller in Writing, all liability of the Seller to the Buyer under these Conditions shall cease and be at an end.

9.5 Except in respect of death or personal injury, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of Contract, for any indirect consequential loss or damage (whether for loss or profit or

otherwise), costs, expenses or other claims for consequential compensation whatsoever (and 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 Goods of their use by the Buyer, except as expressly provided these Conditions.

9.6 Where the Seller take possession of property of the Buyer for any reason including (by way of illustration and not limitation) for packaging purposes the risk in those Goods shall remain with the Buyer and the Seller will use its reasonable endeavours to safeguard the property of the Buyer, but shall not be liable for any loss, destruction or damage consequent or otherwise howsoever caused.

9.7 The Seller shall not be liable to the Buyer or to 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 Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:-

9.7.1 act of God, explosion, flood, tempest, fire or accident:

9.7.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition:

9.7.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority: or

9.7.4 import or export regulations or embargoes.

### 10. Sub-Contracting

10.1 The Seller reserves the right to sub-contract assign or transfer its rights and obligations in the Contract or any part thereof.

### 11. Export Terms

11.1 Where the Goods are supplied for export from the United Kingdom then notwithstanding any other provision of these Conditions the Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon. Unless otherwise agreed in Writing between the Buyer and the Seller, the Goods shall be delivered at the Seller's option by postage or to a carrier chosen by the Seller for delivery to the Buyer in accordance with these Conditions and the Seller shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979.

11.2 Payments of all amounts due to the Seller in accordance with this Condition 11 shall be made in sterling directly to the Seller.

### 12. General

12.1 Any notice required or permitted to be given by either party to the other under these 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 at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.2 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.

12.3 If any provisions 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 provision in question shall not be affected thereby.

12.3 The Contract and these Conditions shall be governed by the Law of Scotland and the parties hereto submit to the non-exclusive jurisdiction of the Scottish Courts.

12.5 Any notice served by hand shall be deemed to be delivered on the day of delivery and notices served by post shall be deemed to be received 2 days after the date of posting.

12.1 Returnable Packaging - Pallets and packing material will be charged extra but credited if returned carriage paid to us in a reusable clean and dry condition within six month. Returns made by direct arrangement with our factory will be without additional extra charge.