

CLASADO LIMITED

TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale apply to all Orders that the Buyer places with Clasado Limited and sets out all the terms in relation to the Company supplying Products to the Buyer. By signing these Conditions or placing an Order, the Buyer acknowledges and agrees that it shall be bound by them.

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions:

Buyer means the person to whom the Company is to supply Products pursuant to a Contract;

Company means Clasado Limited, a company incorporated in England and Wales (registered number: 5268862);

Conditions means the terms and conditions of sale set out in this document;

Contract means a contract for the sale of Products by the Company to the Buyer incorporating these Conditions;

Force Majeure Event has the meaning given in clause 12;

Intellectual Property Rights means patents, trade marks, service marks, registered designs, applications for any of those rights, trade and business names, unregistered trade marks and service marks, copyrights, know-how, rights in designs and inventions, rights in databases; and any other rights of the same or similar effect or nature, in each case in any jurisdiction;

Order means any purchase order placed by the Buyer for the purchase of Products from the Company;

Order Acknowledgement means written confirmation from the Company to the Buyer (including by email) once the Company has received the Order, that the Company accepts the Order;

Price has the meaning given in clause 5.1;

Price List means any price list issued by the Company to the Buyer from time to time setting out the Price of Products, or if no price list is issued, the Company's standard price list in force from time to time;

Products means the Products which the Company is to supply to the Buyer as agreed in the Order Acknowledgement;

Quotation means an estimate of the cost of supply of the Products given by the Company (including given by email);

Specification means the specification of the Products provided by the Company to the Buyer; and

VAT means value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994.

1.2 In these Conditions:

1.2.1 headings are for identification and indexing purposes only and they shall not affect the construction or interpretation of these Conditions;

1.2.2 words importing the singular meaning shall include the plural meaning and vice versa;

1.2.3 references to a **person** shall include natural persons, corporate or unincorporated bodies (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns and references to a **party** shall mean either the Company or the Buyer as the context requires and **parties** shall mean both of them; and

1.2.4 the word **including, include, includes** and **for example** will be construed without limitation unless inconsistent with the context and **working days** are all days other than Saturdays, Sundays or English public holidays.

2. **APPLICATION**

2.1 These Conditions alone shall govern and be incorporated in every Contract for the sale of Products made by or on behalf of the Company. They shall apply in place of and prevail over any terms or conditions contained or referred to in any documentation submitted by the Buyer (including the Buyer's terms and conditions of purchase), in correspondence or elsewhere, or implied by trade custom, practice or course of dealing.

2.2 Acceptance by the Buyer of delivery of the Products shall be deemed to constitute unqualified acceptance of these Conditions.

2.3 A variation of these Conditions is valid only if it is in writing and signed by a director or authorised representative of the Company.

3. **QUOTATIONS AND ACCEPTANCE**

3.1 A Quotation issued by the Company does not constitute an offer. Any Quotation is given on the basis that no Contract shall come into existence until the Company despatches an Order Acknowledgement. The Company reserves the right to withdraw or revise a Quotation at any time prior to the Company's acceptance of the Order. Any Quotation is valid for a period of thirty (30) days

only from its date, provided that the Company has not previously revised or withdrawn it.

- 3.2 Each Order or acceptance of a Quotation for Products by the Buyer shall be deemed to be an offer by the Buyer to buy Products subject to these Conditions.
- 3.3 The Company's acceptance of the Buyer's Order shall be effective only where the Company provides the Buyer with an Order Acknowledgement.
- 3.4 The Buyer shall ensure that the terms of its Order are complete and accurate.
- 3.5 Once an Order is accepted the Buyer may not cancel an order without the Company's consent. If the Company, in its discretion, accepts a cancellation, the Buyer shall pay the Company for all costs and expenses incurred by the Company in progressing the Order as at the time of cancellation.

4. **DESCRIPTION OF PRODUCTS**

- 4.1 The quantity and description of the Products shall be as set out in the Order Acknowledgement and Specification.
- 4.2 Any representations about the Products shall have no effect unless expressly agreed in writing and signed by a director or authorised representative of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.
- 4.3 All samples, drawings, designs, descriptive matter, specifications, particulars of weight and dimensions and advertising issued by the Company are issued to give an approximate idea of the Products described in them. They shall not form part of the Contract and this is not a sale by sample. The Company accepts no responsibility for any errors, omissions or other defects in any drawings, designs or specifications not prepared by the Company.
- 4.4 The Company reserves the right to amend the Specification of the Products if required by any applicable statutory or regulatory requirements.

5. **PRICE**

- 5.1 Unless otherwise agreed by the Company in writing or stated on the Order Acknowledgement, and subject to clause 5.2, the price payable for the Products is the price listed in the Price List current at the time of despatch on a free-carrier (FCA) (Incoterms 2020) basis (unless otherwise agreed in writing) (the **Price**).
- 5.2 The Company may at any time prior to the issuance of an Order Acknowledgement: (i) withdraw any discount from its normal prices; and/or (ii) revise Prices to take account of any change to the Order, inflation, increases in costs including costs of any Products, materials, carriage, labour or overheads and the increase or imposition of any tax, duty or other levy.

- 5.3 Unless otherwise specified, VAT and any other tax or duty payable by a Buyer and all costs or charges in relation to packaging, loading, unloading, carriage and insurance shall be added to the Price.

6. TERMS OF PAYMENT

- 6.1 The Company shall be entitled to require the Buyer to pay the Price of the Products under the Contract upfront in advance of despatch of the Products, until the Buyer has established a reasonable amount of trading history with the Company (as reasonably determined by the Company in its sole discretion).
- 6.2 Subject to clause 6.1, payment of the Price for the Products shall, unless otherwise agreed in writing, be made in pounds sterling (unless otherwise stated on the invoice that payment may be made in another currency) in full within thirty (30) days of the date of the Company's invoice. Time of payment is of the essence of a Contract.
- 6.3 No payment shall be deemed to have been received until the Company has received cleared funds. The Buyer shall be responsible for all charges in respect of payments not made by it in GBP (£) from a UK bank.
- 6.4 The Buyer shall make all payments due under a Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 6.5 The Company is entitled to offset any amount owing to it from the Buyer against any amount owed to the Buyer by the Company, under any Contract.
- 6.6 All payments payable to the Company under a Contract shall become due immediately on its termination despite any other provision.
- 6.7 In the event that the Buyer fails to pay any amount due to the Company under the Contract the Company reserves the right (without prejudice to any of its other rights or remedies) to: (i) suspend delivery of Products to the Buyer; and/or (ii) to claim interest on the overdue sum from the due date for payment until receipt by the Company of the full amount (including any accrued interest) whether before or after any judgment, such interest will accrue each day at the rate of five per cent. (5%) a year above the Bank of England's base rate from time to time, but at five per cent. (5%) a year for any period when that base rate is below 0%.
- 6.8 Any extension of credit allowed to the Buyer may be changed or withdrawn at any time and if, in the opinion of the Company, the credit-worthiness of the Buyer deteriorates before delivery of the Products, the Company may require full or partial payment of the Price prior to delivery or the provision of security for payment by the Buyer in a form acceptable to the Company.

7. DELIVERY

- 7.1 Delivery or despatch dates or estimated lead times mentioned in any Quotation, Order Acknowledgement or elsewhere are approximate only and not of any contractual effect. The Company is not liable to the Buyer for failure to deliver on a particular date or dates. Time for delivery is not of the essence of a Contract and shall not be made so by service of any notice. If no delivery dates are specified, delivery shall be within a reasonable time.
- 7.2 Costs for delivery are set out in the Order Acknowledgement and delivery shall be at the delivery address specified on the Order Acknowledgement unless otherwise agreed by the Company in writing. For international Orders, Buyer shall be responsible for all customs clearances and importation.
- 7.3 The Buyer shall provide at the point of delivery and at its own expense adequate and appropriate equipment and manual labour for unloading the Products. The Buyer is solely responsible for unloading the Products at the point of delivery. The Buyer shall indemnify the Company against all losses, liabilities, costs, expenses and damages arising as a result of the Company or its subcontractors assisting the Buyer in the loading, unloading or other removal of the Products from the point of delivery.
- 7.4 Subject to the other provisions of these Conditions, the Company shall not be liable for any failure to deliver on a particular date nor shall any delay entitle the Buyer to terminate or rescind a Contract unless such delay exceeds one hundred and eighty (180) days.
- 7.5 If for any reason the Buyer refuses or fails to take delivery of any of the Products when they are ready for delivery or fails to take any action necessary on its part for delivery of the Products, the Company is entitled to terminate the Contract with immediate effect, to dispose of the Products as the Company may determine and to recover from the Buyer any loss or additional costs incurred as a result of such refusal or failure (including storage costs from the due date of delivery).
- 7.6 The quantity of any consignment of Products as recorded by the Company upon despatch from the Company's premises shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.
- 7.7 If the Company delivers up to and including 5% more or less than the quantity of Products ordered the Buyer may not reject them.
- 7.8 The Company may effect delivery of the Products in one or more instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract. Each instalment shall be treated as a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

- 7.9 Section 32(2) of the Sale of Products Act 1979 does not apply to a Contract.
- 7.10 The Buyer shall meet the cost of any special packaging, or special or expedited delivery requested by the Buyer or any packaging rendered necessary by delivery by any means other than the Company's normal means of packaging and delivery. The Buyer shall, unless otherwise agreed, be solely responsible for the disposal of all packaging in accordance with all regulations (whether statutory or otherwise) relating to the protection of the environment.
- 7.11 The Buyer shall inspect and test the Products immediately upon receipt and in any event prior to applying any process to, using, amending, treating or otherwise changing the Products. In the event that the Buyer fails to inspect and test the Products in accordance with this clause 7.11 then, notwithstanding any other terms in these Conditions, the Company shall be under no liability to the Buyer in respect of any defect whatsoever in the Products. The time periods for notifying the Company of any defects are as set out in clause 11.

8. RISK

- 8.1 The Products are at the risk of the Buyer from the time of delivery.
- 8.2 From the time of delivery until ownership of the Products passes to the Buyer in accordance with clause 9, the Buyer shall insure the Products against all risks for their full value with a reputable insurance office to the reasonable satisfaction of the Company. The Buyer shall hold the proceeds of any claim on the insurance policy on trust for the Company and shall immediately account to the Company with the proceeds.

9. TITLE

- 9.1 Notwithstanding delivery and passing of risk, ownership of the Products shall not pass to the Buyer until the Company has received in full (in cash or cleared funds): (i) the agreed Price for the Products (together with any accrued interest); and (ii) all other amounts owed by the Buyer to the Company under any Contract.
- 9.2 Until ownership of the Products has passed to the Buyer, the Buyer is in possession of the Products in a fiduciary capacity and shall:
- 9.2.1 not part with possession of the Products (otherwise than in accordance with clause 9.5);
 - 9.2.2 keep the Products free from any charge, lien or encumbrance and store the Products (at no cost to the Company) separately from all other Products of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
 - 9.2.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Products;

- 9.2.4 maintain the Products in satisfactory condition;
 - 9.2.5 give the Company such information about the Products as the Company may from time to time require; and
 - 9.2.6 notify the Company immediately upon the happening of any of the termination events set out in clause 13.2.
- 9.3 The Company reserves the right to repossess and resell any of the Products to which it has retained title. The Company's consent to the Buyer's possession of the Products and any right the Buyer may have to possession of the Products shall in any event cease upon the happening of any of the events set out in clause 13.2.
- 9.4 The Buyer grants to the Company, its agents and employees an irrevocable right and licence to enter the Buyer's premises with or without vehicles during normal business hours for the purpose of inspecting and/or repossessing Products to which it has retained title. This right and licence shall continue to subsist notwithstanding the termination for any reason of a Contract and is without prejudice to any accrued rights of the Company under a Contract or otherwise.
- 9.5 Whilst the Buyer is in possession of the Products with the Company's consent (but not otherwise) the Buyer may in the ordinary course of business sell the Products or any new product or products produced with the Products before ownership of the Products has passed to the Buyer provided that:
- 9.5.1 as between the Buyer and its customer the Buyer sells the Products as principal and the Buyer is not and shall not be empowered to commit the Company to any contractual relationship with or liability to the sub-buyer or customer or any other person;
 - 9.5.2 as between the Company and the Buyer, the Buyer sells the Products in a fiduciary capacity as agent for the Company;
 - 9.5.3 the Buyer holds such part of the proceeds of sale as represent the amount owed by the Buyer to the Company on trust for the Company and does not mingle such proceeds with any other monies or pay them into an overdrawn bank account; and
 - 9.5.4 notwithstanding any agreed period of credit for payment of the Price of the Products, the Buyer shall pay such proceeds of sale to the Company forthwith upon receipt.
- 9.6 Notwithstanding the provisions of this clause 9, the Company may:
- 9.6.1 bring an action against the Buyer for the Price of the Products in the event of non-payment by the Buyer by the due date even though ownership of the Products has not passed to the Buyer; and

9.6.2 by notice to the Buyer at any time after delivery pass ownership in the Products to the Buyer with effect from the date of the notice.

9.7 On termination of a Contract for any reason, the Company's rights contained in this clause 9 shall remain in effect.

10. **LIABILITY TO THIRD PARTIES**

10.1 The Buyer shall indemnify the Company against all losses, liabilities, costs, expenses and damages which the Company incurs as a result of the carrying out of any work required to be done on or to the Products in accordance with the requirements or specifications of the Buyer involving any infringement of the rights of any third party (including infringement of Intellectual Property Rights).

10.2 The Buyer shall notify the Company immediately of any claim made or action brought or threatened alleging infringement of the rights of any third party. The Company shall have control over and conduct any such proceedings in such manner as it shall determine. The Buyer shall provide all such reasonable assistance as the Company may request. The cost of any such proceedings shall be borne in such proportions as the parties shall determine.

11. **WARRANTY AND LIABILITY**

11.1 The Company warrants that the Products will correspond with the Specification for their shelf life, as set out on the Product Specification unless such other warranty period is specified in the Order Acknowledgement, provided that:

11.1.1 the Company shall be under no liability in respect of any defect arising from: (i) fair wear and tear; (ii) wilful damage or negligence by the Buyer or persons using the Products; (iii) failure to follow the Company's instructions (whether oral or in writing); (iv) incorrect storage of the Products; (v) incorporating the Products with other Products and/or applying any process to the Products; or (vi) misuse of the Products without the Company's approval;

11.1.2 the Company shall be under no liability if the total Price of the Products has not been paid by the due date for payment; and

11.1.3 the Buyer notifies the Company of any defect within three (3) days of receipt of the Products by the Buyer or if the defect would not have been apparent on reasonable inspection, within three (3) days of discovering the defect.

11.2 The Company is not liable to the Buyer for:

11.2.1 non-delivery unless the Buyer notifies the Company of a claim within three (3) days of the date of the Company's invoice, or the date of despatch;

- 11.2.2 shortages in quantity delivered unless the Buyer notifies the Company of a claim within three (3) days of receipt of the Products; and
- 11.2.3 damage to or loss of the Products or any part of them in transit (where the Products are carried by the Company's own transport or by a carrier on behalf of the Company) unless the Buyer notifies the Company of a claim within three (3) days of receipt of the Products or their anticipated delivery date.
- 11.3 In the event of a claim by the Buyer under clause 11.1 or 11.2, the Buyer shall (if applicable) return, at its own cost, the defective Products to the Company for the Company to test and inspect them and if liability is accepted by the Company under clause 11.1 or 11.2 the Buyer's only remedy and the Company's only obligation is, at the Company's option: (i) to make good any shortage or non-delivery; or (ii) to replace any Products found to be damaged or defective; or (iii) to refund any Products affected.
- 11.4 All conditions, warranties and representations expressed or implied by statute, common law or otherwise in relation to the Products (save for the conditions implied by Section 12 of the Sale of Goods Act 1979) are excluded from the Contract to the fullest extent permitted by law.
- 11.5 Subject to clause 11.7, the Company's aggregate liability to the Buyer under a Contract whether for negligence, breach of contract, breach of statutory duty, misrepresentation, restitution or otherwise shall in no circumstance exceed the lower of: (i) a sum equivalent to the Price paid for the products under the relevant Order; and (ii) £1,000,000.
- 11.6 Subject to clause 11.7, the Company is not liable for: (i) any indirect, special or consequential liabilities; (ii) any loss of business or business opportunities; (iii) any pure economic loss; (iv) any loss of profits, anticipated profits, revenue or anticipated savings (v) any loss of goodwill or reputation; or (vi) any loss of management time, howsoever caused.
- 11.7 Nothing in these Conditions excludes or limits the Company's liability: (i) for death or personal injury caused by the Company's negligence; (ii) for fraud or fraudulent misrepresentation; or (iii) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability.

12. **FORCE MAJEURE**

If the Company is prevented, hindered or delayed from or in supplying the Products in accordance with these Conditions by an event which is beyond the Company's reasonable control including acts of terrorism, insurrection, riots, civil unrest and military action, the exercise of emergency powers by any local, regional or national governmental authority, fire, flood, earthquake, storm and other natural disasters, epidemic or pandemic, industrial action, strikes and lock-outs, blockage or embargo or the failure or delay of supplies of power, fuel, transport, equipment,

telecommunications systems, Internet or other Products and/or services (including any third party materials) (a **Force Majeure Event**) the Company may, at its option:

- 12.1 suspend deliveries while the Force Majeure Event continues;
- 12.2 if the Company has insufficient stocks to meet its commitments, apportion available stocks between its customers as it decides; or
- 12.3 terminate any Contract so affected with immediate effect by written notice to the Buyer,

and the Company will not be liable for any loss or damage suffered by the Buyer as a result.

13. **TERMINATION**

13.1 On or at any time after the occurrence of any of the events in clause 13.2 the Company may:

13.1.2 stop any Products in transit;

13.1.3 suspend further deliveries to the Buyer;

13.1.4 exercise its rights under clause 9; and/or

13.1.5 terminate any Contract with the Buyer with immediate effect by written notice to the Buyer.

13.2 The events are:

13.2.2 the Buyer being in breach of an obligation under a Contract with the Company;

13.2.3 the Buyer passing a resolution for its winding up or a court of competent jurisdiction making an order for the Buyer's winding up or dissolution;

13.2.4 the making of an administrative order in relation to the Buyer or the appointment of a receiver over, or an encumbrancer taking possession of or selling, an asset of the Buyer;

13.2.5 the Buyer making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally; or

13.2.6 the Buyer becoming unable to pay its debts when they fall due.

13.3 Upon termination of a Contract pursuant to clause 12.3 or clause 13.1.5 any indebtedness of the Buyer to the Company becomes immediately due and payable and the Company is relieved of any further obligation to supply Products to the Buyer pursuant to that Contract.

14. **CONFIDENTIAL INFORMATION**

The Buyer shall treat any Confidential Information relating to the Company as strictly confidential except to the extent that such Confidential Information can be proved to be within the public domain at the time of disclosure other than as a result of any breach of these Conditions. The Buyer shall not disclose such Confidential Information to any third party nor use it for any purpose except as is strictly necessary for the performance of its obligations under the Contract. For the purpose of these Conditions, **Confidential Information** means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by the Company to the Buyer or otherwise acquired by the Buyer in connection with these Conditions or its subject matter whether before or after the commencement of the Contract including information relating to the Company's products, operations, processes, plans or intentions, product information, know-how, trade secrets and other Intellectual Property Rights, market opportunities, business affairs, financial information and other confidential information.

15. **INTELLECTUAL PROPERTY RIGHTS**

15.1 All right, title and interest in and to any Intellectual Property Rights in the Products or created by or on behalf of the Company during the design, manufacture and supply of the Products and all renewals and extensions thereof shall be the property of and vest in the Company (unless otherwise agreed in writing), and the Buyer assigns, including by way of present assignment of future rights, such Intellectual Property Rights to the Company with full title guarantee and free from all encumbrances and other rights of whatever nature exercisable by any third party, together with the right to take action for any past, present and future damages and other remedies in respect of any infringement or alleged infringement of such Intellectual Property Rights. The Buyer waives any moral rights in relation to the Intellectual Property Rights.

15.2 All right, title and interest in and to any Intellectual Property Rights owned by or licensed to a party prior to the Contract is and shall remain the exclusive property of the party owning it (or, where applicable, the third party from whom it's right to use such Intellectual Property Rights has derived).

16. **NOTICES**

16.1 A notice under or in connection with a Contract shall be in writing and shall be delivered personally or sent by recorded or registered delivery post or sent by facsimile transmission to the other party at its last known address or email address.

16.2 In the absence of evidence of earlier receipt, service of a notice is deemed to have been effected as follows:

16.2.2 if delivered personally, when left at the address referred to in clause 16.1;

16.2.3 if sent by recorded or registered delivery post, two (2) working days after posting it (excluding the day of posting); or

16.2.4 if sent by email on a working day before 5.00 p.m. at the time of its transmission and otherwise on the next working day.

17. GENERAL

17.1 The Company may at its discretion sub-contract any of its obligations under this Agreement to any person.

17.2 Unless otherwise stated in these Conditions, a Contract (and any documents referred to in it) constitutes the entire understanding between the parties in relation to its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of the Contract. No party has relied on any warranty or representation except as expressly set out in the Contract.

17.3 The Buyer may not assign or transfer or purport to assign or transfer any of its rights or obligations under a Contract without first having obtained the Company's written consent. The Company may assign a Contract or any part of it to any person.

17.4 If any clause of a Contract, (or part of a clause), is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other clauses shall remain in force.

17.5 If any invalid, unenforceable or illegal clause of a Contract would be valid, enforceable or legal if some part of it were deleted, the clause shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

17.6 Nothing in a Contract is intended to confer on any person any right to enforce any clause of a Contract which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

17.7 The failure by the Company to exercise or delay by the Company in exercising any right, power or remedy provided by a Contract or by law does not constitute a waiver of such right, power or remedy or a waiver of any other rights, powers or remedies. No single or partial exercise of a right, power or remedy provided by a Contract shall prevent any further exercise of the right, power or remedy or the exercise of another right, power or remedy.

17.8 Each right or remedy of the Company under a Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

17.9 A Contract is governed by, and shall be construed in accordance with, the laws of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to hear and decide any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with a Contract.