

1. DEFINITIONS

In these conditions: 'The Contract' means the contract to which these terms relate.

'The Company' shall mean Powermade Designs Limited whose registered address is First Stage House Business Park, Brimington Road North, Chesterfield, Derbyshire, S41 9BQ.

'The Buyer' shall mean firm, partnership, agent or individual specified.

'The Products' shall mean the products to be supplied by the company.

2. APPLICABILITY OF CONDITIONS

All orders are accepted only on the terms set out below. The buyer accepts that these terms shall govern relations between himself and the company to the exclusion of any other terms and no variation or qualification of the terms of the Contract shall be valid unless agreed in writing by the Company Secretary or a Director of the company.

3. REPRESENTATIONS

No employee or agent of the company other than the Company Secretary or a Director of the company is authorised to make any statement, warranty or representation as to the goods. The buyer, therefore, shall not be entitled to rely or seek to rely upon any statement, warranty or representation made by an employee or agent of the company other than a written statement from the Company Secretary or a Director.

4. PRICES, PAYMENT, PAYMENT TERMS AND CASH DISCOUNTS

The price is the quoted price or, where no price is quoted, the published price list current at the date of acceptance of the order. All prices quoted are valid for thirty days only or until earlier acceptance by the buyer after which time they may be altered without notice.

The company may by notice at any time before delivery increase the price to reflect any increase in the cost to the company which is due to any factor beyond its control (eg. a customs duty change) or any delays caused by any instructions or failure of the buyer.

All prices are exclusive of VAT.

The time for payment shall be of the essence of the contract.

All invoices are due net by the date stipulated on the invoice and the company may add to any outstanding balance all reasonable costs, including interest costs at an annualized rate of 12%, incurred in recovering such balances.

Cash discounts are those detailed on the face of the invoice.

5. ORDER AND CARRIAGE CHARGES

All orders are subject to the company's acceptance and subject to the availability of the goods. Acceptance of orders does not constitute a guarantee by the company of delivery of the goods and the company reserves the right to cancel any order without liability if goods requested by the buyer are not available.

Orders required on next day delivery basis will be accepted but a supplementary charge will be made.

The above charge will apply unless cancelled by prior written consent.

6. DELIVERY, RISK AND CLAIMS FOR DAMAGE OR LOSS IN TRANSIT

Delivery shall be made as soon as practical after the order is placed but no liability is accepted for any loss resulting from late delivery. Delivery dates are stated by way of estimate only. The company may charge for the storage of goods which the buyer fails to take delivery.

Claims for damage in transit must be notified to the company within 7 days of receipt of goods. In the event of loss in transit, notice must be given in writing within 14 days of the despatch date shown on the relevant invoice/invoices.

Risk of loss or damage of any kind to the goods shall pass to the buyer upon the tendering of the goods to the place nominated by the buyer.

7. TITLE

(i) The company retains ownership of the goods, property in which shall not pass to the buyer until the company has received payment of the price of all goods (whether or not the goods are delivered in instalments and some have been paid for by the buyer) and all other property and chattels agreed to be sold by the company to the buyer payment for which is then due.

Until such time, the buyer shall keep any goods delivered to it as bailee for and on behalf of the company and the buyer shall insure and store the goods separately or in some other way ensure that the goods are readily identifiable as the property of the company.

At the company's request the buyer shall either deliver up the goods to the company or permit the company to repossess the goods and subsequently sell them.

(ii) Upon any resale of any of the goods by the company pursuant to paragraph (i) above if the proceeds of the sale exceed the price of the goods due to the company from the buyer, the company shall pay the excess to the buyer having deducted the cost of the repossession and resale of the goods and any damages which the company has suffered as a result of any repudiation of the Contract by the buyer.

(iii) The provisions of this clause 7 survive the termination of the Contract for whatever reason and in particular but without limitation, termination of the Contract by the company by the acceptance of the buyer's repudiation.

(iv) The company may exercise a general lien or right of retention on all goods or any parts thereof in the company's possession which are the buyer's property (or which are supplied to the company by the buyer) for any sums whatsoever due to the company and pursuant to such lien or right the company may without notice sell all or part of such goods and keep proceeds of sale in diminution of such sums and all costs incurred by the company in effecting the said sales. Any balance remaining shall be remitted to the buyer. Upon any such sale title in the goods shall pass to the purchaser thereof.

8. GOODS RETURNED

No return of goods will be accepted without the prior written approval of the company.

9. CHANGE OF PRODUCT LINES AND SPECIFICATIONS

Product lines and specifications are subject to withdrawal or change by the company without notice and the company reserves the right to make modifications without liability to the buyer.

10. QUALITY, CONDITION AND DESCRIPTION OF GOODS

(i) The company warrants (subject aftermentioned) that the goods manufactured by it will be of good material and workmanship and that reasonable care will be employed in assembling or incorporating items not manufactured by it, so that upon the buyer giving written notice to the company that the goods have not been supplied as aforesaid, if the same be established and provided the buyer or user has not tampered with the goods, the company will at its own expense, at its option, replace or repair such defective goods or give the buyer credit for the cost of such goods.

(ii) Except for liability for death or personal injury arising from the company's negligence and except for liability under a specific provision of the contract, the company shall not be liable for loss, damage, costs, legal costs, profession and other expenses of any nature incurred or suffered by the buyer or by a third party whether direct or consequential arising out of any claim or dispute (including without limitation a third party claim alleging infringement of intellectual property) brought against the buyer concerning the goods or their supply. Indeed the buyer will indemnify the company and its officers, servants and agents against all and any such loss, damage costs, legal costs, professional and other expenses.

The provisions of this clause 10(ii) do not apply to liability for death or personal injury arising from the company's negligence.

Notwithstanding anything herein, the company is not liable in contract or otherwise for indirect or consequential loss (including without limitation any economic loss or other loss of turnover, profits, business or goodwill) damage, cost, legal costs, professional and other expenses.

(iii) The buyer expressly acknowledges that the provisions of this clause 10 satisfy the requirements of reasonableness specified in the Unfair Contract Terms Act 1977 and that it shall be estopped from claiming the contrary at any future date in the event of any dispute with the company concerning the company's liability hereunder.

11. NO WAIVER

The failure of the company at any time to enforce any or all of these terms and conditions shall not be construed as a waiver of the same or of the right of the company to enforce the same.

12. NOTICE

Any notice or other document to be given under the contract shall be in writing and shall be deemed to have been duly given if left at or sent by first class post, or registered post or telefax, to the address of the buyer.

All such notices and documents shall be in the English language. Any such notice of other document shall be deemed to have been received by the addressee two working days following the date of despatch, or when transmitted by telefax, simultaneously with the transmission. To prove the giving of a notice or other document it shall be sufficient to show that it was dispatched.

13. ENGLISH LAW

These terms and conditions and the Contract of which they form part shall be governed by and construed in accordance with English Law and the buyer submits to the non-exclusive jurisdiction of the English courts. If any of these conditions or any part thereof is rendered void or unenforceable by any legislation to which it is subject or by any rule or law it shall be void or unenforceable to that extent and no further.

POWERMADE DESIGNS LIMITED
First Stage House Business Park
Brimington Road North
Chesterfield
Derbyshire
S41 9BQ
Tel: (01246) 540044
Fax: (01246) 540055
E-mail: powermadedesigns@aol.com