

Toolzonetools.co.uk - Terms & Conditions of Sale

This page (together with the documents referred to on it) tells you the terms and conditions on which we supply any of the products (**Products**) listed on our website www.toolzonetools.co.uk (**our site**) to you. Please read these terms and conditions carefully before ordering any Products from our site. You should understand that by ordering any of our Products, you agree to be bound by these terms and conditions. You should print a copy of these terms and conditions for future reference.

www.toolzonetools.co.uk is a site operated by KDP Tools Limited registered in England and Wales under company number 03664038 and with our registered office and main trading address at Unit 1, Ormidale Square, Tiverton Business Park, Tiverton, Devon EX16 6TW.

1. Definitions

- a. "Company" hereafter means KDP Tools Ltd and its successors;
- b. "Customer" hereafter means any person whose order is accepted by the Company;
- c. "Products" hereafter means items which the Company agrees to sell to the Customer.

2. General Conditions

- a. Subject to paragraph 4 "Orders", the Company shall sell to the Customer and the Customer will purchase in accordance with any order the Customer places, which is accepted by the Company, subject to the Conditions set out in these terms of sale. The purchase of the Products shall take place to the exclusion of any other terms and Conditions whatsoever of the customer or otherwise.
- b. Samples supplied and/or advice or recommendations as to application, storage or use of Products supplied by the Company, its employees or agents are for guidance only and are acted upon entirely at the Customers own risk.

3. Quotations

- a. Quotations supplied by the company are invitations only to purchase the Product and does not form a binding contract to supply.

4. Orders

- a. The Company shall not be bound by any order submitted by the Customer unless and until it has been accepted by the Company by means of an email confirming that the product has been dispatched.
- b. No terms and Conditions of the Customers purchase order shall apply to the Company except for those of a descriptive nature.

c. The Customer shall indemnify the Company against all damages, costs and expenses incurred by the Customer resulting from any purported alteration, non supply or cancellation of a contract by the Company.

5. Descriptions and Specification

a. The Company reserves the right to alter at any time the specification of any Product supplied by the Company. The Company shall notify the Customer if any alteration is made to a Product after an order is accepted and before purchase is affected.

6. Prices

a. The price of the Product shall be the price quoted, or if no price has been quoted, or a quote is no longer valid, it shall be the price listed in the current published pricelist at the date of despatch of the order. The prices are exclusive of value added tax, or any other government duty or tax.

b. Pricing is decided on a "batch by batch" basis and no previously quoted prices are binding. Prices must be confirmed by the customer with the company at the time of ordering.

c. The Company reserves the right, by giving notice to the customer before the time of despatch/collection, to increase the price to reflect an increase in the cost to the company which is due to factors beyond its reasonable control.

d. The price includes the cost of the Company's standard packaging. The cost of any additional packaging requested by the customer shall be borne by the customer.

e. The Company reserves the right to charge delivery costs where these are outside of the standard terms and Conditions.

7. Collection and Delivery

a. Where collection of the Product is made by the Customer at the Company's premises, the Customer shall agree date and time for collection at least 24 hours before collection.

b. Subject to the paragraph above (7a), any time quoted/ agreed for delivery/ collection is approximate only and the Company shall not be liable to for any delay which results in loss of profit or business. The Customer is not entitled to cancel the order due to delay, unless the Company acknowledges in writing that the delay was unreasonable. The Products may be delivered to the Customer in advance of the quoted time upon giving reasonable notification to the Customer.

c. The Company reserves the right to supply up to 20% more or less than the quantity ordered where this facilitates ease of picking. The quantity delivered shall deem to be the quantity ordered and the total invoice price shall be altered pro rata.

- d. The Customer shall make sure that the vehicle and employees, or the Company's carrier are given free and unhindered access to an appropriate entrance in order to unload the Products. The Customer shall also make sure that the Product's are unloaded promptly and shall be liable for costs incurred due to any delay in unloading.
- e. The Company will not refund the Customer carriage for any Product refused at the time of delivery where that Product has been supplied correctly in accordance with the Customers order. Where applicable, carriage weights are those stated by the Company and are binding for invoicing purposes.
- f. If the Customer fails to take delivery of the Product(s), or fails to give adequate instructions for delivery, any charges for redelivery of the Products shall be passed on to the Customer.

8. Inspection

- a. The Customer shall count the Products and check for damage at the time of collection or delivery. Any short delivery or damage must be notified in writing to the Company within 7 days of despatch date. After this time claims will not be entertained by the Company.
- b. On delivery, the Customer must inspect the parcel/pallet for any damage. If damage is evident and the customer fails to sign delivery slip as such, no claim will be entertained after for shortage or damage to the Product.

9. Property Risk and Quality Control

- a. Until Full Payment has been received by the Company from the Customer for Products supplied under the terms of this agreement the following applies:
 - i) Legal and beneficial ownership shall remain in the Company;
 - ii) The Customer shall hold the Products as the Company's bailee and fiduciary agent, and shall keep the Products, properly stored and insured and identified as the Company's property;
 - iii) The Customer shall be entitled to resell or use the Products in the ordinary course of its business, but the Company shall be legally and beneficially entitled to the proceeds of the sale. The Customer, if requested by the Company, must pay the proceeds of the sale into an account separate from the normal business account, or otherwise ensure that they are kept by or on behalf of the Company in a separate and identifiable form and not mixed with any other monies. Forthwith, on receipt of the proceeds of the sale, the Customer shall forward any sums outstanding to the Company, its servants or agents. The Company and its servants are hereby irrevocably authorised to enter upon any land or building upon which it believes the Products are situated in the course of obtaining monies which it is owed by the Customer.

iv) The Customer shall not be entitled to use Products for which the Company has not received payment as a form of security or pledge for any indebtedness which the Customer has. If the Customer does so, all monies owed by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) become due and payable and the Customer shall upon notice in writing being given to the Company assign the Company all its rights against its customer in respect of the disposal under 9.a.iii above.

b. All risk, including that of damage to or loss of the products shall pass to the Customer;

i) at the time of collection by the Customer from the Company's premises;

ii) at the time of delivery by the Company at the Customer's premises, or location previously agreed with the Customer; iii) at the time of delivery by the Company's designated carrier.

iv) at the time of collection from the Company's premises by the Customer's carrier.

c. In the event of a dispute as to the quality of a Product supplied by the Company, the Customer shall allow the Company to carry out quality control tests on the supplied product in question, whether or not the proprietary right of the Product has passed to the Customer. No Claims will be entertained regarding the Product if the Customer does not allow the testing by the Company to take place.

10. Testing

The Company is under no obligation to provide the Customer with tailor-made Certificates of Analysis and/ or Conformity or any other form of quality certification pursuant to an order. Any quality checks made by the Company do not relieve the Customer of the responsibility to carry out its own quality checks, nor do they confirm that the Products have certain properties or are suitable for any specific application.

11. Insurance

The Customer shall fully insure the Products against all risks from the time stipulated for the passing of risk in 9.b.i-iv until all proprietary rights in such Products have passed to the Customer.

12. Terms of Payment

a. The Customer shall settle its account with the Company on a strictly payment on delivery/ collection basis, unless written terms have been previously agreed with the Company. Furthermore, such terms are on the basis of the following;

i) The Customer shall pay the price of the Products stated in the invoice and payment shall be received at the Company's premises on or before the time stated;

ii) 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 will be entitled to cancel the contract or

suspend performance of the contract of any further deliveries to the Customer; appropriate any payment made by the Customer as the Company may see fit regarding the Products (or the Products supplied in any other contract between the Customer and the Company) not withstanding any purported appropriation by the Customer.

iii) Charge the Customer interest from the date the Payment is due on the amount unpaid at the rate of 6% per annum above the Barclay's bank base rate from time to time calculated on a daily basis.

b. The Customer shall not be entitled to set off against or deduct from any payment due the Company any previously agreed settlement discounts once payment is overdue.

c. Where the Company agrees to supply Products in installments against an order accepted by the Company, each installment shall be paid for in full and any failure to pay the installment shall entitle the Company to refuse to deliver any further installment of the Products due under this or any other contract between the Customer and the Company.

13. Intellectual Property

The Customer shall not infringe any patent mark registered design copyright industrial or other intellectual property right belonging to the Company and relating to the Products or any other goods or matters supplied by the Company with or in relation to the Products. If the Customer wishes to use any patent mark registered to the Company full written signed agreement must be obtained from the Company before use.

14. Confidentiality

All secret data and other confidential information of the Company shall remain the sole and exclusive property of the Company and shall not be used by the Customer or disclosed to any third party.

15. Limitation or Liability

a. Except as required by law, the Company does not warrant that the Products shall be of any particular quality or fit for any purpose.

b. Subject to these Conditions and except where the Products are sold under a consumer sale (within the Sale of Goods Act 1979), all warranties or terms implied by statute or common law are excluded as far as possible and in particular, but without limitation, the Company shall be under no liability

i) in respect of any defect in the Products arising from any drawing or specification supplied by the Customer;

ii) in respect of any defect caused by the customer and arising from fair wear and tear, wilful damage, negligence, abnormal working Conditions, failure to follow the Company's written instructions (whether oral or written), misuse or alteration of any products without the Company's written approval

- iii) under any implied or express warranty Conditions or guarantee if the Products have not be fully paid for by the due date for payment
 - iv) in respect of Products not manufactured by the Company the Customer shall be entitled to the benefit of any such warranty or guarantee as is given by the supplier/ manufacturer to the Company.
- c. Except as expressly provided in the Conditions, the Company shall be under no liability to the Customer unless;
- i) written notice of the Customer's claim is received by the Company within fourteen days of the delivery of the Products to the Customer
 - ii) in respect of all claims arising out of loss or damage to the Products in transit the Customer notifies the carrier and the Company within 7 days of despatch.
- d. Where the Customer makes a claim in accordance with paragraph 15c and the Products received are damaged or defective or not of merchantable quality, then a sample of the Products in question shall, at the written request of the Company be returned at the expense of the Customer, to the Company in the condition in which they were received by the Customer. The Company will examine the same and if in the Company's sole discretion, the Company decides that the complaint is justified in whole or part without creating any obligation to do so, the Company may select
- i) to replace all or any of the Products
 - ii) to accept the return of all or any of the Products giving credit to the Customer for the price thereof; or
 - iii) make an allowance to the Customer of what in the Company's sole discretion it estimates to be the difference in value between the Products delivered and the Contract price.
- e. Subject to these Conditions, except in respect of death or personal injuries caused by the Company's negligence, the Company shall not be liable to the Customer for any consequential loss or damage which arises out of or in connection with the sale and supply of the Products or their use or resale by the Customer.
- f. Except in respect of damage for which the Company is not legally entitled to exclude liability, the Company's liability for any claim or series of claims shall not exceed the sum for which the Company has reasonably insured.

16. Consumer Rights

- a. If you are contracting as a consumer, you may cancel a Contract at any time within seven working days, beginning on the day after you received the Products. In this case, you will receive a full refund of the price paid for the Products in accordance with our refunds policy set out in clause 17.

b. To cancel a Contract, you must inform us in writing. You must also return the Product(s) to us immediately, in the same condition in which you received them, and at your own cost and risk. You have a legal obligation to take reasonable care of the Products while they are in your possession. If you fail to comply with this obligation, we may have a right of action against you for compensation.

17. Our Refunds Policy

When you return a Product to us:

- a. because you have cancelled the Contract between us within the seven-day cooling-off period (see clause 16 above), we will process the refund due to you as soon as possible and, in any case, within 30 days of the day you have given notice of your cancellation. In this case, we will refund the price of the Product in full. However, you will be responsible for the cost of returning the item to us. The item must be returned to us in a saleable condition otherwise full refund will not be made.
- b. for any other reason (for instance, because have notified us that you do not agree to any change in these terms and conditions or in any of our policies, or because you claim that the Product is defective), we will examine the returned Product and will notify you of your refund via e-mail within a reasonable period of time. We will usually process the refund due to you as soon as possible and, in any case, within 30 days of the day we confirmed to you via e-mail that you were entitled to a refund for the defective Product. Products returned by you because of a defect will be refunded in full. If the defective product sent back is deemed to of been misused by the consumer then any refund, partial or otherwise, will be at the discretion of the Company. We will usually refund by using a credit note to be used against further purchases or with a replacement product. We will usually refund any money received from you using the same method originally used by you to pay for your purchase.

18. Import Duty

If you order Products from our site for delivery outside the UK, they may be subject to import duties and taxes which are levied when the delivery reaches the specified destination. You will be responsible for payment of any such import duties and taxes. Please note that we have no control over these charges and cannot predict their amount. Please contact your local customs office for further information before placing your order.

19. Force Majeure

The Company shall not be liable for any failure to fulfill its obligation to a Customer if prevented from doing so by events beyond its reasonable control. In the event of this happening the Company may decide to defer the contract in its entirety or part of without any liability to the Company and without prejudice to any other rights of the Company.

20. Indemnity

The Customer shall indemnify the Company in respect of all damage, injury or loss occurring to any person or property and against all claims, charges or expenses arising from the condition of the Product or from its use in

respect to damage, loss or injury which can be shown to be caused by the carelessness, wholly or partly, of the Customer, or its servants, agents or employees or by any breach of these Conditions by the Customer or its obligations to the Company.

21. Termination

- a. The Company shall be entitled to terminate this Contract and its obligations to the Customer upon the following events happening;
 - i) failure of the Customer to pay any sum due to the Company by the due date under any contract entered into;
 - ii) breach by the Customer of any of the conditions set out in these Terms and Conditions and fails to remedy the breach within 7 days of been notified in writing by the Company of the breach.
 - iii) The Customer being an individual dies or becomes bankrupt, enters into a receivership or arrangement for the benefit of its creditors or being a corporate body has an administrator receiver appointed over all or any of its assets or goes into liquidation either voluntary or compulsory (unless part of a bona fide scheme or reconstruction or amalgamation).
- b. No forbearance or indulgence shown to the Customer by the Company during the carrying out of its obligations the Customer or otherwise shall affect or prejudice the rights of the Company against the Customer or be taken as admission of liability whatsoever or be taken as waiving of the Conditions set out in this document.
- c. In the event of termination of the contract between the Company and the Customer, all monies due to the Company by the Customer shall become immediately payable in full and the Company shall be entitled immediately to repossess all Products in the possession or under control of the Customer or administrator receiver. The Company shall be entitled to enter the premises of the Company where it believes the Products are being held, or its agents or servants, to affect repossession.

22. Miscellaneous

- a. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the registered office or principal place of business or address as such notified to the other party at the time.
- b. If these Conditions are found to be invalid or unenforceable in whole or part, the validity of the remaining part shall not be affected and shall remain enforceable.
- c. These Conditions shall be governed by all aspects with the laws of England and the parties hereby submit themselves to the jurisdiction of the English Courts.
- d. These Conditions, where applicable, shall survive termination of the contracts.

e. The Customer shall not assign any benefit under the contract without the written consent of the Company.

23. Marketing

The Customer must inform the Company in writing if emails and mail literature for the purposes of advertising its Products are not to be sent to the Customer.

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