

1. Interpretation

1.1 Definitions:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document.

Contract: the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from the Supplier.

Force Majeure Event: an event or circumstance beyond a party's reasonable control.

Goods: the goods (or any part of them) set out in the Order in connection with or branded by BucketGolf.

Order: an order for Goods requested by the Customer in accordance with the format of the Supplier's standard order template (whether such is completed in person, by telephone, online or by such other means as the Supplier may permit) for the sale of goods from time to time which refers to and incorporates these Conditions.

Supplier: Aqualand Industries (Products) Limited (registered in England and Wales with company number 05360822).

1.2 Interpretation:

- (a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (b) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (c) a reference to **writing** or **written** includes email but excludes fax.
- (d) A reference to a time of day is a reference to that time in London.

2. Basis of contract

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted by us either upon the earlier of (as applicable):
 - (a) when the Supplier issues a written acceptance of the Order in which it also confirms payment in full for the Goods has been received from the Customer; or
 - (b) by delivery of the Goods to the Customer in accordance with these terms,at which point the Contract shall come into existence and be legally binding.
- 2.4 Neither the processing of the Customer's payment for the Goods, or an acknowledgment of an Order but requesting payment for the Goods (including sending an email confirming the Order is being processed) does not constitute legal acceptance of the Order.
- 2.5 The Supplier shall retain the absolute right to accept or decline Orders, or to terminate them at any time prior to the time of actual delivery of the Goods to the Customer in accordance with clause 4.

3. Goods

- 3.1 Any samples, drawings, descriptive matter, advice, or advertising produced by the Supplier and any descriptions or illustrations or other general guidance contained in the Supplier's catalogues or brochures or online are produced for the sole purpose of giving an approximate idea of the Goods described in them and the Supplier shall not be liable for any amendment to therefrom however arising, nor shall any such amendment in any way invalidate the Contract between the Supplier and the Customer in respect of the Goods.
- 3.2 Any advice given by the Supplier as to the suitability of the Goods or their usage in a particular context or location shall be provided for guidance only and any such statements, whether oral or in writing, shall not be relied upon by the Customer as against the Supplier. Such statements shall not form part of the Contract or have any contractual force. The Customer should make their own professional judgement as to the economic, practical and other suitability of the Goods.
- 3.3 The Supplier reserves the right to amend the specification of the Goods at any time including, without limitation, as may be required by any applicable statutory or regulatory requirements. The Supplier shall not be liable for any amendment to the specification however arising, nor shall any such amendment to the specification in any way invalidate the Contract between the Supplier and the Customer in respect of the Goods.
- 3.4 All Orders are subject to stock availability and to all parts and materials used in the manufacture of the Goods remaining available for supply and such not being defective or incapable of being used in the Goods.
- 3.5 The Supplier may, at its discretion, process any part of the Order for which stock is available. Where Goods are out of stock, the Supplier shall have the right to cancel the Order and to refund in full the Customer or may, in its absolute discretion, hold the Order until stock is available for delivery.

4. Delivery

- 4.1 The Supplier shall ensure that:
- (a) each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (b) if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.
- 4.2 The Supplier shall deliver the Goods to the location set out in the Order (**Delivery Location**) at any time after receipt of an Order. The Supplier has no obligation to deliver, or to notify that the Goods are ready, until such time as the price of the Goods has been paid in full.
- 4.3 The Supplier shall use third party postage, courier and delivery companies to deliver the Goods to the Delivery Location. Once the Goods are ready for delivery, the Supplier shall organise collection of the Goods and delivery to the Delivery Location and shall select what it considers (in its sole discretion) to be the most appropriate means of delivery. To the extent delivery to the Delivery Location will incur additional costs beyond those included in the price, the Supplier reserves the right to invoice the Customer for such additional costs. Such invoice shall be payable by the Customer prior to the goods being made ready for collection and delivery.
- 4.4 Delivery is completed on the completion of unloading of the Goods at the Delivery Location. The Supplier recommends that the Goods are inspected on delivery.
- 4.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

- 4.6 If the Supplier fails to deliver the Goods, its liability shall be limited to rearranging delivery to occur within a commercially reasonable time following the missed estimated delivery date where possible. This shall be without prejudice to any right of the Supplier to terminate any Order in accordance with this Contract. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.7 If, by 5pm on the date that is ten (10) Business Days from and including the day on which the Supplier attempted to make delivery of Goods, the Customer has not taken delivery of or collected those Goods, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, accounting to the Customer for any excess over the price of the Goods, or charge the Customer for any shortfall below the price of the Goods.
- 4.8 If the Supplier delivers up to and including 10% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, a pro rata adjustment shall be made to the Order invoice.
- 4.9 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.10 The Customer is solely responsible for arranging all insurance or other covers as it considers necessary so as to protect itself against the risk of damage to the Goods whilst in transit to its Delivery Location.

5. Quality

- 5.1 The Supplier warrants that on delivery, and for a period of three (3) months from the date of delivery (**warranty period**), the Goods shall:
- (a) be free from material defects in design, material and workmanship;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - (c) be fit for the purpose held out by the Supplier.
- 5.2 Subject to clause 5.3, if:
- (a) the Customer gives notice in writing to the Supplier during the warranty period that some or all of the Goods do not comply with the warranty set out in clause 5.1;
 - (b) the Supplier is given a reasonable opportunity of examining such Goods, or where requested by the Supplier, where the Customer has provided video and other image evidence to the satisfaction of the Supplier; and
 - (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,
- the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:
- (a) the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;
 - (b) the defect arises (howsoever arising) during transit to the Customer Delivery Location;
 - (c) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - (d) the defect arises as a result of the cleaning of the Goods without first such means of cleaning having been approved by the Supplier or otherwise being stated as approved in any manual provided with the Goods;

- (e) the defect arises as a result of impact damage, hazardous liquid or chemical damage or exposure to extreme heat or cold;
- (f) the defect arises as a result of the effects of water, heat or sun (including as a result of the Goods being left exposed outdoors and not stored undercover or in any storage bags provided with the Goods);
- (g) the defect arises as a result of a Force Majeure Event;
- (h) the Customer fails to follow instructions provided in any training that the Supplier provides to the Customer and its employees
- (i) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (j) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (k) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.4 Without limiting clause 5.3, the Goods are for regular and repeated use and are expected to receive scratches, marks and imperfections in the cause of normal use. The Supplier shall not be in breach of the warranty in clause 5.1 for such minor issues.

5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

5.7 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 In spite of delivery, ownership (also known as "title") in the Goods shall not pass to the Customer until it has paid the price for the Goods in full and, where other sums payable to the Supplier under these Conditions, have been paid by the Customer too. Until title in the Goods passes from the Supplier to the Customer, the Customer shall: (i) not be entitled to use or resell the Goods; (ii) safely hold the Goods for the Supplier; (iii) return the Goods to the Supplier immediately if requested; and (iv) be liable to the Supplier for any loss, damage or destruction of the Goods. In addition, until title in the Goods passes from the Supplier to the Customer, the Customer shall store the Goods at its own cost separately from all other goods in the possession of the Customer and marked in such a way that the Goods are clearly identified as the Supplier's property.

6.3 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 8.1, then, without limiting any other right or remedy the Supplier may at any time:

- (a) require the Customer to deliver up all Goods in its possession; and
- (b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. Price and payment

7.1 The price of the Goods shall be the price set out in the Order.

7.2 The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond the Supplier's control (including inflation, foreign exchange fluctuations, increases in taxes and duties and other manufacturing costs);

- (b) the cost of the Goods to the Supplier increasing, but any such increase in the price to the Customer on this ground must not exceed 10% of the original price on the Order;
- (c) any request by the Customer to change the delivery date, quantities or types of Goods ordered, or the Delivery Location; or
- (d) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

7.3 The price of the Goods:

- (a) (unless stated otherwise in the Order or in writing between the parties and without limiting clause 4.3) includes charges for packaging, insurance and transport of the Goods to the Delivery Location
- (b) (unless stated otherwise in the Order or in writing between the parties) excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- (c) excludes the costs and charges for export or import duties, levies, tax, customs costs relevant to the Customer or as a result of the location of the Delivery Location. Such shall be the responsibility of the Customer.

7.4 The Supplier shall ensure the Order states the price for the Goods (and any other charges payable in connection with the order of Goods) and all the price and all such charges must be paid in full by the Customer before the Supplier will process an Order or otherwise acknowledge it by either of the means set out in clause 2.3. Time for payment is of the essence.

7.5 Payment may be made in cash direct to the Supplier's bank account nominated in writing by it for the purpose or may be made by credit/debit card in the name of the Customer. Where a credit/debit card is used for payment, the Customer confirms the card being used belongs to, or is authorised for use in connection with the Order by, the Customer.

7.6 Any invoice and receipt of payment is available upon written request.

7.7 All credit/debit card holders are subject to validation checks and authorisation by the card issuer. If the issuer of the card refuses to authorise payment the Supplier will not accept an Order and it is not obliged to inform the Supplier of the reason for the refusal, and will not be liable for the item not being delivered or provided to the Customer. The Supplier is not responsible for the card issuer or bank charging the holder of the card as a result of the processing of the Customer's credit/debit card payment in accordance an Order.

7.8 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above HSBC UK's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

7.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

8. Termination

8.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of any term of the Contract;
- (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

- (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business.

8.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 8.1, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

8.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

8.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and the Supplier shall have no further obligation to the Customer.

9. Limitation of liability

9.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

9.2 Subject to clause 9.1:

- (a) the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 50% of the price of the Goods.

10. Intellectual property

10.1 Notwithstanding any transfer of title to the Goods, the Customer shall not obtain any rights, title or interest in any or all intellectual property rights (registered and unregistered) in the Goods and shall not interfere with or otherwise obscure any copyright or similar intellectual property rights notices attached to the Goods or the packaging.

10.2 If the Customer post comments on the Goods or about Bucketgolf or the Supplier to any website, blog or social media network ("commentary") the Customer must ensure that such commentary represents fairly-held opinions and is not derogatory or offensive.

10.3 All rights are reserved in relation to enforcing the provisions of this clause 10.

10.4 For the purposes of this clause 10, "intellectual property rights" shall be understood as meaning: patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

11. Force majeure

The Supplier shall not be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event.

12. General

12.1 Entire agreement.

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

12.2 Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

12.4 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or, as regards the Customer, at the Delivery Location or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.4(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.5 Third party rights. No one other than a party to this Contract shall have any right to enforce any of its terms.

12.6 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

12.7 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.