

Terms of Trading

1. Price

- 1.1 The price quoted excludes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery
- 1.2 Our quotations lapse after 3 months (unless otherwise stated).
- 1.3 The price quoted excludes delivery (unless otherwise stated).
- 1.4 Unless otherwise stated, the price quoted is an illustrative estimate only and the price charged will be our price current at the time of dispatch.
- 1.5 Rates of tax and duties on the goods will be those applying at the time of dispatch.
- 1.6 At any time before dispatch, we may adjust the price to reflect any increase in our costs of supplying the goods.

2. Delivery

- 2.1 All delivery times quoted are estimates only.
- 2.2 If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract, however:
 - 2.2.1 you may not cancel if we receive your notice after the goods have been dispatched; and
 - 2.2.2 if you cancel the contract, you can have no further claim against us under that contract.
- 2.3 If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including indirect or consequential loss or increase in the price of the goods).
- 2.4 We may deliver the goods in instalments. Each instalment may be treated as a separate contract.

3. Delivery and safety

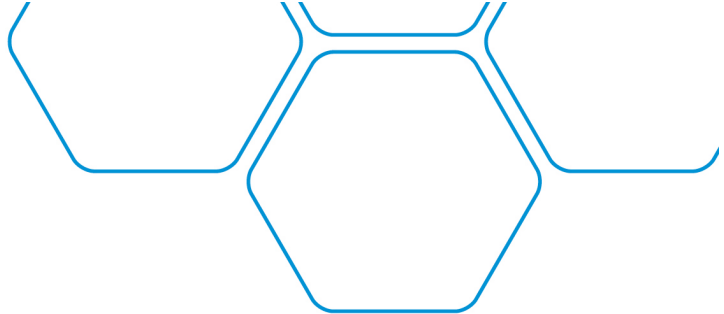
- 3.1 We may decline to deliver if:
 - 3.1.1 we believe that it would be unsafe, unlawful, or unreasonably difficult to do so; or
 - 3.1.2 the premises (or the access to them) are unsuitable for our vehicle unless we have been notified in advance, before our quotation was made, that a particular type of vehicle or equipment is required.
- 3.2 You must ensure that you have adequate and proper storage for the goods.
- 3.3 You must comply with any applicable law and best practice concerning the storage of the goods and the safety of those on your premises including our agents, employees, or representatives.
- 3.4 Where specified, you must insure against your liabilities under clauses 3.2 and 3.3 and provide evidence of insurance upon request.

4. Payment terms

- 4.1 You are to pay us in cash (or otherwise in cleared funds) before delivery unless you have an approved credit account.
- 4.2 If you have an approved credit account, payment is due no later than 30 days after the date of our invoice unless otherwise agreed in writing.
- 4.3 If you fail to pay us in full on the due date:
 - 4.3.1 we may suspend or cancel future deliveries;
 - 4.3.2 we may cancel any discount offered to you;
 - 4.3.3 you must pay us interest at the rate set under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998 (as may be amended):
 - a) calculated (on a daily basis) from the date of our invoice until payment;
 - b) compounded on the first day of each calendar month; and
 - c) before and after any judgment (unless the court orders otherwise);
- 4.4 If you have an approved credit account, we reserve the right to withdraw it or reduce your credit limit or bring forward your due date for payment. We may do any of those at any time without notice.
- 4.5 While you owe money to us, we have a lien on any of your property in our possession.
- 4.6 You do not have the right to set off any money you may claim from us against anything you may owe us.
- 4.7 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly including financing costs and including legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms.

5. Title

- 5.1 Until you pay all debts you may owe us:
 - 5.1.1 all goods supplied by us remain our property;
 - 5.1.2 you must store them so that they are clearly identifiable as our property;
 - 5.1.3 you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;
 - 5.1.4 you may use those goods and sell them in the ordinary course of your business, but not if:
 - a) we revoke that right (by informing you in writing); or
 - b) you become insolvent.
- 5.2 You must inform us (in writing) immediately if you become insolvent.



- 5.3 If your right to use and sell the goods ends you must allow us to remove the goods.
- 5.4 We have your permission to enter any premises where the goods may be stored:
- 5.4.1 at any time, to inspect them; and
- 5.4.2 after your right to use and sell them has ended, to remove them, using reasonable force if necessary.
- 5.5 If the goods supplied under these terms become mixed with other goods:
- 5.5.1 We own a proportionate part (by value) of the mixture; and
- 5.5.2 When part of the mixture is removed:
- a) Goods added to the mixture before ours are treated as removed before ours; and
- b) Goods added to the mixture after ours are treated as removed after ours.
- 5.6 Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.
- 5.7 You are not our agent. You have no authority to make any contract on our behalf or in our name.
- 6. Risk**
- 6.1 The goods are at your risk from the time of delivery.
- 6.2 Delivery takes place either:
- 6.2.1 at our premises when loading is completed (if you are collecting them or arranging carriage); or
- 6.2.2 at your premises when unloading is completed (if we are arranging carriage).
- 6.3 You must inspect the goods on delivery. If any goods are damaged (or not delivered), you must write to tell us within three working days of delivery (or the expected delivery time). You must give us (and any carrier) a fair chance to inspect any damaged goods.
- 7. Warranties**
- 7.1 We warrant that the goods:
- 7.1.1 comply with their description on our acknowledgement of order form; and
- 7.1.2 are free from material defect at the time of delivery (as long as you comply with clause 6.3).
- 7.2 We give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of the goods or their fitness for any purpose.
- 7.3 If you believe that we have delivered goods which are defective in materials or workmanship, you must:
- 7.3.1 inform us (in writing), with full details, as soon as possible; and
- 7.3.2 allow us to investigate (we may need access to your premises and product samples).
- 7.4 If the goods are found to be defective in material or workmanship (following our investigations, and you have complied with those conditions (in clause 7.3) in full, we will (at our option) replace the goods or refund the price.
- 7.5 We are not liable for any other loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of goods or their use, even if we are negligent.
- 7.6 Our total liability to you (from one single cause) for damage to property caused by our negligence is limited to £10,000,000.
- 7.7 For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price of the goods.
- 7.8 Nothing in these terms restricts or limits our liability for death or personal injury resulting from negligence.
- 8. Specification**
- 8.1 If we supply the goods in accordance with your specifications or instructions:
- 8.1.1 you must ensure that the specifications or instructions are accurate;
- 8.1.2 you must ensure that goods supplied in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and
- 8.1.3 you warrant that the specifications or designs will not result in the infringement of any rights belonging to a third party and that you will indemnify us in respect of all loss, damage, costs or expenses (including legal fees on a full indemnity basis) which we may incur in connection with any such claim or threatened claim by a third party.
- 8.2 We reserve all intellectual property rights (including any design rights) that we may have over the goods.
- 8.3 We also reserve the right to make without notice any minor modifications in our specifications we think necessary or desirable.
- 8.4 We reserve the right to make any changes in the specifications of our goods which are necessary to ensure they conform with any applicable safety or other statutory requirements.
- 9. Return of goods**
- 9.1 We will accept the return of goods from you only:
- 9.1.1 by prior arrangement (confirmed in writing);

- 9.1.2 on payment of an agreed handling charge (unless the goods were defective when delivered); and
- 9.1.3 where the goods are as fit for sale on their return as they were on delivery.

10. Export terms

- 10.1 Clause 10 of these terms shall apply to exports except where inconsistent with any written agreement between us.
- 10.2 Where the goods are supplied by us to you by way of export from the United Kingdom, then the Incoterms © 2020 of the International Chamber of Commerce, which are in force at the time when the contract is made, shall apply. The Incoterms specific to your supply will be confirmed by way of our Sales Order acknowledgement.
- 10.3 A specific delivery condition of this Contract shall prevail if it is in conflict with any prescribed Incoterm.
- 10.4 You are responsible for complying with any legislation or regulations governing the importation of goods into the country of destination and for the payment of any duties due.
- 10.5 Where the goods are to be sent by us to you by a route including sea transport, we are under no obligation to give a notice under section 32(3) of the Sale of Goods Act 1979.
- 10.6 If you are responsible for arranging testing and inspection of the goods at our premises before shipment (unless otherwise agreed) we will not be liable for any defect in the goods which would be apparent on inspection unless a claim is made before shipment. We are not liable for any damage during transit.
- 10.7 We are not liable for death or personal injury arising from the use of the goods delivered in the territory of another State (within the meaning of s.26 (3) (b) Unfair Contract Terms Act 1977).

11. Cancellation

- 11.1 If the order is cancelled (for any reason) you are then to pay us for all stock (finished or unfinished) that we may then hold (or to which we are committed) for the order.
- 11.2 We may suspend or cancel the order, by written notice if:
 - 11.2.1 you fail to pay us any money when due (under the order or otherwise);
 - 11.2.2 you become insolvent;
 - 11.2.3 you fail to honour your obligations under these terms.
- 11.3 You may not cancel the order unless we agree in writing (and clauses 2.2.2 and 11.1 then apply).

12. Waiver and variations

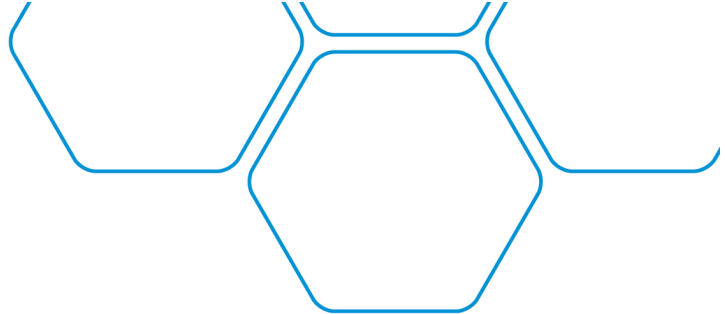
- 12.1 Any waiver or variation of these terms is binding in honour only unless:
 - 12.1.1 made (or recorded) in writing;
 - 12.1.2 signed on behalf of each party; and
 - 12.1.3 expressly stating an intention to vary these terms.
- 12.2 All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any printed terms you may have to the extent that they are inconsistent with our terms.

13. Force majeure

- 13.1 If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any of our obligations to you, without liability.
- 13.2 Examples of those circumstances include act of God, terrorist attack, war, threat of or preparation for war or other hostilities, epidemic or pandemic, accident, explosion, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.

14. Credit Account

- 14.1 This clause applies if and whenever we agree in writing to allow you a credit facility.
- 14.2 You will only be allowed a credit facility if the credit checks conducted by us in respect of you are wholly satisfactory to us.
- 14.3 We will notify you in writing when your account with us has been opened and of the credit limit imposed on that account. You will only be permitted to use the credit facility when its account has opened and then only to the credit limit imposed on the account.
- 14.4 The full price of all goods sold must be paid in cleared funds within 30 days (or such other number of days as we agree in writing) of the date of our invoice for the same.
- 14.5 We may require you to set up and maintain a direct debit facility with our bankers as a condition of us granting you a credit facility.
- 14.6 We reserve the right to vary the terms upon which we allow you a credit facility, or to withdraw a credit facility at any time for any reason. Any variation in such terms will be notified to you in writing and will take immediate effect.
- 14.7 Where any valid warranty claim is made in respect of goods supplied on credit and we decide to refund you some or all of the price of the goods such refund will be made by credit to your account.



- 14.8 Notwithstanding any warranty claim made by you, you must nevertheless pay the price of the goods which are the subject of the claim in accordance with clause 14.4 above pending the determination of the validity of such claim.
- 14.9 Where your credit facility is withdrawn then without prejudice to any other rights or remedies available to us, the full price of all the goods sold but not yet paid for shall become immediately due and payable notwithstanding any previous arrangements or agreements to the contrary.
- 15. General**
- 15.1 English law is applicable to any contract made under these terms. The English and Welsh courts have non-exclusive jurisdiction.
- 15.2 If you are more than one person, each of you has joint and several obligations under these terms.
- 15.3 We may subcontract part or all of our obligations under the contract.
- 15.4 You may not assign your obligations under the contract without our express written consent.
- 15.5 If any of these terms are unenforceable as drafted:
- 15.5.1 it will not affect the enforceability of any other of these terms; and
- 15.5.2 if it would be enforceable if amended, it will be treated as so amended.
- 15.6 We may treat you as insolvent if:
- 15.6.1 you are unable to pay your debts as they fall due; or
- 15.6.2 you (or any item of your property) become the subject of:
- a) any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
- b) any application or proposal for any formal insolvency procedure; or
- c) any application, procedure, or proposal overseas with similar effect or purpose.
- 15.7 All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us, and you should not rely on them in entering into any contract with us.
- 15.8 It is your responsibility to conduct your own risk assessment in relation to the carriage, storage, and use of our products and to make your own assessment of all applicable legal and other regulatory requirements relating thereto. Although we take great care in the preparation of our safety sheets, we shall accept no liability (except in the case of death or personal injury caused by our negligence) for any error in them and you are liable for the consequences of any failure to comply with the safety sheets we issue.
- 15.9 Any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post or by fax) the other's registered office or principal place of business. All such notices must be signed.
- 15.10 No contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.
- 15.11 The only statements upon which you may rely in making the contract with us, are those made in writing by someone who is our authorised representative and either:
- 15.11.1 contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or
- 15.11.2 which expressly state that you may rely on them when entering into the contract.
- 15.12 Nothing in these terms affects or limits our liability for fraudulent misrepresentation.
- 15.13 We process data in accordance with our Privacy Policy, a copy of which can be found at the address <https://www.johnhogg.co.uk/privacy-policy/>