

TERMS & CONDITIONS OF SALE – BLU LEISURE LTD.

GENERAL STATEMENT:

In these conditions: -

“The Seller” means Blu Leisure Ltd

“The Buyer” means the person, firm, or company purchasing the goods;

“The Goods” means the goods which shall be subject of the contract between seller & buyer;

“Delivery” means the time of delivery to the buyer.

“Agreement” means the agreement for the sale and purchase of the goods comprising these terms and conditions and the letter from the Seller to the Buyer incorporating these terms and conditions by reference.

1. GOVERNING CONDITIONS:

These conditions (and the terms and conditions in the letter from the Seller to the Buyer incorporating these terms and conditions by reference) alone shall govern the Agreement and no other terms which may appear on any document issued by the buyer shall bind the Seller unless expressly agreed in writing by the Seller. No agent of the Seller has the authority to add or vary any of these terms or conditions without the express authorisation in writing of Blu Leisure Ltd, and no agent has any authority to make or give representation or warranty in relation to any goods

2. PRICES:

Prices are subject to change up to confirmation of order. Prices do not include VAT or delivery charges. Quotations are valid for period stated on quotation only.

3. DELIVERY:

- a. The seller shall make every effort to maintain specified dates of delivery but the seller shall not in any circumstances be liable for failure to deliver by a specified delivery date, nor for any damage or loss arising directly or indirectly out of a delay in delivery or as a result of non-delivery where there is a delay in despatch, delivery or completion from any cause whatsoever beyond the seller's reasonable control or as a result of industrial action.
- b. Where the seller delivers less than the quantity ordered the buyer shall not reject the goods on delivery on the grounds of shortfall alone, but shall pay the contract price and shall report any shortfall to the seller at the time of delivery.
- c. The seller may at its option deliver goods ordered in such instalments as they think fit.
- d. Where the buyer refuses or fails to take delivery of the goods then the seller may at its option cancel the order or alternatively the seller may at its option stand by the Agreement and shall be entitled at its option to suspend deliveries until the buyer agrees in writing to take delivery and the buyer shall in addition to the purchase price pay to the seller all additional expenses incurred by the seller as a result of the delay including storage and until all deliveries are resumed and the goods, the subject of the Agreement, shall be stored at the cost and the risk of the buyer.

4. PAYMENT:

- a. Terms of payment are net cash within the terms printed on the front of the invoice to the place of payment as stated on the invoice.
- b. If the buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the seller, the seller shall be entitled to charge the buyer compound interest (both before and after any judgment) on the amount unpaid at the rate of 4% per annum above Barclays Bank PLC base rate from time to time to be calculated from the due date for payment until payment in full is made (a part of a month being treated as a full month for the purposes of calculating interest).
- c. In the event of any cheque issued by the buyer in payment of the price being returned by the buyers bank unpaid the seller shall without prejudice to any other right or remedy available to it, be entitled to charge the buyer an administration charge of £20 for each occasion upon which the seller shall present the cheque before payment is made. The seller shall be entitled to invoice the buyer for such administration charge at any time after the event and such charge shall be payable to the buyer within seven days of the date of invoice.
- d. If the buyer shall commit any breach of these conditions or if any distress or execution or other legal process shall be levied upon any of the assets of the buyer shall, in the opinion of the seller, be unable to pay for the goods or suspend payment of its debts or makes any arrangement with its creditors or being a company has a receiver appointed or passes any resolution to be wound-up (other than voluntarily for purposes of re-construction or being a person shall commit any act of bankruptcy petition presented against them, then and in any such event the seller shall without prejudice to any other rights and remedies it might have, be at liberty to forthwith by notice in writing to the buyer: -
 - I. Cancel all orders and contracts or any part thereof remaining unfulfilled between the seller & the buyer for the delivery of goods.
 - II. Make due and payable to the seller all sums which otherwise would not yet have become due and payable from the buyer
 - III. Have access either for its agents or itself to the premises of the buyer for the protection, removal or realisation of any goods at any time in which the property shall have passed from the seller to the buyer under the conditions of sale.

5. WARRANTIES & CONDITIONS:

- a. The seller warrants to the buyer that at the time of delivery the goods will be of the nature, substance, quality & quantity specified in the contract and comply in all material respects with the requirements of the product specification and all statutory regulations and provisions applicable to such goods
- b. The above warranty is given by the seller subject to the express notification to the buyer of the need for certain goods to be stored in such conditions whereby their integrity is maintained, and the seller shall be under no liability under the above warranty (or any other warranty, condition, or guarantee) in the event of the buyer failing to store such goods in the appropriate manner.
- c. Subject as expressly provided in these conditions, and except where the goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions, or other terms implied by statute or common law are excluded to the fullest extent permitted by law. Where goods are sold under a consumer transaction as defined by the Consumer Transaction (Restrictions on Statements) Order 1976 the statutory rights of the buyer are not affected by these conditions.

6. COMPLAINTS & RETURNS:

- a. The buyer shall be under an obligation to examine and inspect the goods upon delivery for correct number, style and type, defects to and/or loss or damage to the same.
- b. The buyer shall report to the seller any apparent discrepancy, defects and/or loss or damage to any goods delivered against the purchase order and/or delivery note at the time of delivery. In the event of noncompliance with this requirement the seller shall not be liable in any circumstances under contract, tort or otherwise in respect of any miss pick, defect and/or consequential loss arising therefrom.
- c. No claim may be made to the buyer in respect of any defect and/or loss or damage to any goods supplied unless the buyer has held the goods in respect of which the defect, loss/or damage is alleged ready and available for inspection by the seller and for disposal confirmation or instruction from the seller for a period of twenty-eight days from the date of delivery at an address to be notified by the buyer to the seller within five days of delivery. The seller's liability in respect of any defective goods or any loss (including consequential loss) injury or damage attributable thereto and however caused is limited at the seller's option either to the contract price of the goods or to making good by replacement with equivalent goods.
- d. If an allowance has been made in lieu of defectives no further claim for defectives shall be allowed.

7. TITLE:

- a. The goods supplied are at the buyer's risk from the time of delivery to the buyer.
- b. Title to all goods supplied by the seller to the buyer remains in the ownership of the seller until payment in full has been made and the buyer acknowledges that until such payment has been made it is in possession of goods solely as Bailee for the seller and as such the buyer shall endeavour to keep the goods separate and identifiable from all other goods of the buyer at the buyer's premises or wheresoever stored to the buyers order.
- c. If the buyer sells the goods belonging to the seller any proceeds of sale are to be held by the buyer upon trust for the seller to be identifiable at all times as monies of the seller and shall not be mingled with monies of the buyer or paid in to an overdrawn bank account of the buyer. The buyer shall if requested by the seller assign to the seller all rights against any person to whom such goods have been supplied but in respect of which payment has not been made to the buyer.

8. MISCELLANEOUS:

a. Time shall not be the essence of the Agreement.

b. The Agreement sets out the entire agreement and understanding between parties, and supersedes all proposals and prior written or oral agreements, arrangements and understandings between the parties, relating to its subject matter. Each party acknowledges that in entering into the Agreement it does not rely on any representation, warranty, undertaking, collateral contract or other assurance of the other party that is not set out in the Agreement. So far as permitted by law, each party acknowledges and agrees that only the rights and remedies available to it in respect of any such representation, warranty, undertaking, collateral contract or other assurance shall be for the breach of the Agreement and waives all other rights and remedies (including those in tort or arising under statute) which, but for the provision might otherwise be available to it, but nothing in the Agreement shall limit or exclude any liability for fraud or fraudulent misrepresentation.

c. The Agreement and non-contractual obligations arising out of or in connection with it is governed by and shall be interpreted in accordance with English Law. Each party irrevocably submits to the exclusive jurisdiction of the English courts in relation to all matters arising out of or in connection with the Agreement.