

Emporio Arts

TERMS & CONDITIONS - EMPORIO ARTS LIMITED

1, INTERPRETATION

1.1 In these Conditions:

'**Buyer**' - Means the person, firm or company who purchases Goods from the Company;

'**Company**' - Means Emporio Arts Limited of 105 Carver Street, Jewellery Quarter, Birmingham, B1 3AP.

'**Contract**' - Means the contract between the Buyer and the Company for the sale and purchase of the goods;

'**Goods**' - Means the goods (Including any instalment of the goods or any parts for them) which the company is to supply in accordance with these Conditions.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2, BASIS OF SALE

2.1 The Company shall sell and the Buyer shall purchase the Goods in accordance with these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document.

2.2 No variation to these Conditions shall be binding unless agreed in writing by a director of the Company.

2.3 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed in writing by a director of the Company. In entering into the Contract the Buyer acknowledges that it does not rely on any representations which are not so confirmed.

2.4 Any typographical, clerical or other error in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability or, than part of the Company.

2.5 Goods supplied may vary in detail from the illustrations, drawings, measurements and descriptions set out in the Company's sales literature, which are approximate and for guidance only and will not form part of this Contract. Colour finishes will be maintained as accurately as possible but matching cannot be guaranteed. All terminology used in the Company's sales literature is, subject to these Conditions, as understood by general usage in the trade.

3, ORDERS

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company's authorised representative or (if earlier) the Company delivers the Goods to the Buyer.

3.2 The Buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order submitted by the Buyer, and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.

3.3 No order which has been accepted by the Company may be cancelled by the Buyer except with the agreement in writing of the Company and on terms that the Buyer shall indemnify the Company in full against all loss (including, without limitation, loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of such cancellation.

3.4 No Goods may be returned to the Company without the Company's prior written consent and must be returned in their original packaging to ensure no damage is sustained during transit. The Buyer shall be liable for the cost of returning the Goods and for any damage to the Goods prior to receipt by the Company of such returned goods.

4, PRICE OF THE GOODS

4.1 Unless otherwise agreed by the Company, the price of the Goods shall be the price listed in the company's published price list current at the date of dispatch of the Goods. All prices quoted by the company's sales representatives shall be subject to verification by the Company's Head Office.

4.2 Unless otherwise agreed in writing between the Buyer and the Company, all prices are given by the Company on an ex-works basis, and where the Company agrees to deliver the Goods otherwise than at the Company's premises, the Buyer shall be liable to pay the Company's charges for transport and packaging.

4.3 Carriage and packing shall be free for delivery within the UK mainland on orders over £250 net (£500 net for Northern Ireland, Scottish Highlands & Islands may differ). Where the order is under the carriage paid value, carriage and packing will be payable in full by the Buyer,

4.4 The price of the Goods is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Company.

5, TERMS OF PAYMENT

5.1 The Buyer shall pay the price of the Goods on PRO Forma Basis for the first three invoices and thereafter, before the end of the month following the date of the Company's invoice, and the Company shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer.

5.2 The time of payment of the price of the Goods shall be of the essence of the Contract.

5.3 No payment shall be deemed to have been received until the Company has received cleared funds.

5.4 All payments payable to the Company under the Contract (whether or not then due and payable) shall become due immediately upon termination of the Contract notwithstanding any other provision.

5.5 The Buyer shall make all payments due under the Contract without any deduction, whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

5.6 If the Buyer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

5.7.1 Cancel the Contract or suspend any further deliveries to the Buyer;

5.7.2 Appropriate any payment made by the Buyer to that of the Goods (or the goods supplied under any other contract between the Buyer and the Company), as the Company may think fit (notwithstanding any purported appropriation by the Buyer);

5.7.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 1.5 per cent per annum above the base lending rate from time to time of Barclays Bank PLC accruing on a daily basis from the due date for payment until payment in full is made or claim interest from the Buyer under the late Payment of Commercial Debts (interest) Act 1988; and

5.7.4 Recover from the Buyer the price of any goods delivered to the Buyer notwithstanding that the payment for such goods has not yet become due.

5.8 All costs, charges and expenses incurred by the Company in recovering any debt due by the buyer shall be paid by the Buyer on a full indemnity basis.

6, DELIVERY

6.1 Delivery of the Goods shall be made, either by the Buyer collecting the Goods at the Company's premises at any time after the Company has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering the Goods to that place,

6.2 Any dates quoted for delivery of the Goods are approximate only. Time for delivery shall not be of the essence of the Contract.

6.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.4 If the Buyer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Company, the Company may:

6.4.1 Store the Goods until actual delivery and charge the Buyer for all related costs and expenses (including, without limitation, storage and insurance); or

6.4.2 Sell the Goods at the best price readily obtainable and charge the Buyer for any shortfall below the price under the Contract.

6.3 If the Goods are not checked by the Buyer on receipt, they must be signed for "Unexamined".

7, RISK AND PROPERTY

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:

7.1.2 In the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Company tenders delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Company has received in cash or cleared funds all sums due

to it in respect of the Goods, and all other goods agreed to be sold by the Company to the Buyer for which payment is then due.

7.3 Until such times as the property in the Goods passes to the Buyer, the Buyer shall:

7.3.1 Hold the Goods as the Company's fiduciary agent and bailee;

7.3.2 Keep the Goods separate from those of the Buyer and third parties;

7.3.3 Keep the Goods properly stored, protected and insured and identified as the Company's property.

7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

8, WARRANTIES AND LIABILITY

8.1 Subject to the other provisions of these Conditions, the Company warrants that the Goods will upon delivery be of Satisfactory quality within the meaning of the Sale of Goods Act 1994.

8.2 The above warranty does not extend to Goods or parts or materials not manufactured by the Company, in respect of which the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given by the Manufacturer to the Company.

8.2.1 The Company will not assume responsibility for corrosion or any other resulting damage to the Goods where they are installed in areas in which fertilizers or salt are present, either in the air or in the soil, or where the Goods are installed near to chemical plants, etc. with emissions of heavily polluted air.

8.3 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or a shortage of Goods shall (whether or not delivery is refused by the Buyer) be notified to the Company and (if the defect is as a result of damage or loss in transit) the carrier of the Goods within three days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure, if delivery is not refused, and the Buyer does not notify the Company accordingly, the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

8.4 The Company shall not be liable for a breach of the warranty in clause 8.1 if the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, use or maintenance of the Goods or (if there are none) good trade practice or if the Buyer alters or repairs the Goods or makes any further use of the Goods without the written consent of the Company.

8.5 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods is notified to the Company in accordance with these Conditions, the Company shall be entitled to replace the Goods (or the part in question) free of charge or refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Company shall have no further liability to the Buyer.

8.6 The Company shall not be liable for non-delivery of Goods unless written notice is given to the Company within ten days of the date of the Company's invoice. Any liability of the Company for non-delivery of Goods shall be limited to replacing the Goods within a reasonable time or issuing a Credit note at the pro rate Contract rate against any invoice raised for such Goods.

8.7 All warranties, conditions or other terms implied by statute or common law (save for the conditions implied by Section 12 or the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.

8.8 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent representation.

8.9 Subject to conditions 8.7 and 8.8;

8.9.1 The Company's total liability in contract, tort (Including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with performance or contemplated performance of the Contract shall be limited to the price of the Goods; and

8.9.2 The Company shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depreciation of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

8.10 The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control including, but without prejudice to the generality of the foregoing, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party), difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery.

9, Insolvency of Buyer

9.1 This clause applies if:

9.1.1 The Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes Bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

9.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

9.1.3 The Buyer ceases, or threatens to cease, to carry on business; or

9.1.4 The Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

9.2 If this clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

10, EXPORT TERMS

10.1 Where the Goods are supplied for export from the United Kingdom, the conditions of this clause 10 shall (subject to any special terms agreed in writing between the Buyer and the Company) apply notwithstanding any other provisions of these Conditions,

10.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties there on. Payment of all amounts due to the Company shall be made as agreed in writing by the Buyer and the Company before delivery and in the absence of such agreement payment shall be made pro forma.

11, GENERAL

11.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place or business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

11.2 No waiver by the Company of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

11.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected.

11.4 A person who is not a party to the Contract shall have no right to enforce any term of the Contract by virtue of the Contract (Rights of third Parties) Act 1999.

11.5 The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the exclusive jurisdiction of the English courts.

12, RETURN POLICY

In the unlikely event that you should wish to return an item to us, we are pleased to offer a 14 days money back guarantee for items purchased, commencing the day of delivery.

This means you have the right to cancel your order within 14 days in case the order is damaged or defective without charge; the only liability being for any return carriage costs.

If any items are incorrect, damaged or faulty you should notify us within 3 days of receipt by providing us with photographic evidence. Also provide us your order number and contact details.

Please return the item(s) in the same condition as received and in the original packaging. Once the items have been returned they will be inspected. You will receive your refund within 30 days of cancellation.

Certain issues will not be deemed as defective or faulty, for example:

12.1 On rare occasions, due to extreme climate changes in shipping, there might be minor scratches, buff marks.

12.2 As is common practise when crafting handmade lighting, certain degrees of filler may also be used to ensure a uniform finish.

12.3 Our lighting is handcrafted from metal and accordingly there may be slight differences in size between products of the same description. All product dimensions specified by us are approximate.

12.4 As each product is crafted by hand, there may be differences in the spacing around the design; however, this will always be within our quality control tolerances.

12.5 As the product is handcrafted, where possible we will try to show any noticeable marks in our photos and descriptions, but minor marks and wear are to be expected.

12.6 While we endeavour at all times to capture the colour and finish of each piece in our photographs the exact colour displayed varies from screen to screen or on different web browsers. Therefore, we cannot guarantee that your lighting will be the exact colour viewed on your screen or monitor, and cannot accept returns in this instance.

12.7 As the punching of design on product is a handcrafted process and not machine based, you might notice that all holes are not 100% open, so unfortunately we won't accept returns on those grounds.