

HELIONOVA LIMITED (SMART BUY) - TERMS AND CONDITIONS OF SALE

1. **DEFINITIONS:**
 - Conditions** the conditions of sale set out in this document and any special terms and conditions agreed in writing by Us
 - Contract** the contract for the provision of the Goods
 - Delivery Date** the date specified by Us when the Goods are to be delivered
 - Delivery Address** as specified in the Order Confirmation or otherwise agreed by Us
 - Goods** means the items You agree to buy from Us as detailed on the Order Confirmation supplied in accordance with these Conditions
 - Order Confirmation** Our written confirmation of order
 - Price** the price of the Goods which unless otherwise specified shall be exclusive of the cost of delivery and VAT
 - We/Us/Our** Helionova Limited trading as Smart Buy of Hyperion House 19 Frensham Road Sweet Briar Industrial Estate Norwich NR3 2BT
 - You/Your** the person company or party who buys or agrees to buy the Goods from Us
 2. **CONDITIONS APPLICABLE:**
 - 2.1 The Conditions shall apply to the Contract to the exclusion of all other terms and conditions including any terms or conditions which You may purport to apply under any purchase order confirmation or similar document
 - 2.2 Any variation to the Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by Us
 - 2.3 Any representations made by Our employees or agents concerning the Goods shall not be incorporated into the Contract unless confirmed by Us in writing and in entering into the Contract You acknowledge that You do not rely on and waive any claim for breach of such representations which are not so confirmed
 - 2.4 Any typographical clerical or other error or omission in any sales literature quotation price list Order Confirmation invoice or other documentation or information issued by Us shall be subject to correction without any liability on Our part
 - 2.5 Access to and use of Our website shall be in accordance with Our website [Terms and Conditions of Use](#) and Our [Privacy Policy](#) and any orders placed by You must be placed strictly in accordance with these Conditions
 - 2.6 Any order accepted is subject to stock availability and We shall be entitled to cancel the Contract or any part of any order without liability in the event that there is insufficient stock available
 - 2.7 All prices are subject to change prior to the acceptance of any order by Us
 3. **ORDERS AND SPECIFICATION:**
 - 3.1 We reserve the right to make any changes in specification of the Goods which are required to conform with any applicable safety or other statutory requirements or which do not materially affect their quality or performance
 - 3.2 Where You require the Goods to comply with a specification such specification shall be supplied to Us at the time of the order and We shall not be deemed to have agreed to supply Goods conforming to such specification unless agreed in writing by Us
 - 3.3 The Goods shall be supplied in such quantities and instalments as detailed on the Order Confirmation
 - 3.4 Any alteration to the Contract specification required by You must be notified to Us within twenty-four (24) hours of acceptance of Your order for the Goods in which case We may at Our sole discretion accept such alteration and the Contract specification shall be amended accordingly
 - 3.5 Except as otherwise provided no order which has been accepted by Us may be cancelled by You except with Our agreement in writing and on terms that You shall at Our discretion either
 - (a) indemnify Us in full against all loss (including loss of profit) costs (including the costs of all labour and materials used) damages charges and expenses incurred by Us as a result of the cancellation or
 - (b) pay a handling charge on the Goods equal to ten percent (10%) of the Price
 - 3.6 You acknowledge that the disposition shape dimensions materials weights and any other particulars of the Goods (and as appear in any leaflets drawings illustrations or advertisements relating to the Goods) are subject to change to reflect improvements and modifications to the Goods and that such changes which do not materially affect the performance (or intended performance) of the Goods shall not be deemed as a change to the Contract specification
 4. **DELIVERY:**
 - 4.1 Any date quoted for delivery of the Goods is approximate only and We shall not be liable for any loss suffered by You arising from any delay in the delivery of the Goods
 - 4.2 You shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery
 - 4.3 Time for delivery shall not be of the essence unless previously agreed by Us in writing and it is agreed that You shall not be entitled to terminate the Contract by reason of Our failure to deliver by the Delivery Date
 - 4.4 If You fail to take delivery of the Goods or fail to give Us adequate delivery instructions at the time stated for delivery (otherwise than by reason of Our fault) then without prejudice to any other right or remedy available to Us We may:
 - (a) store the Goods until actual delivery and charge You the reasonable costs (including transportation and insurance) of storage or
 - (b) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to You for the excess over the Price or charge to You for any shortfall below the Price
 - 4.5 We shall be entitled to deliver the Goods by instalments of any size and in any order
 - 4.6 You shall inspect the Goods on delivery and shall within twenty-four (24) hours of delivery notify Us of any alleged defect damage or failure to comply with description or sample. You shall return any affected Goods to Us in order to afford Us an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them. If You shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the Contract free from any defect or damage which would be apparent on a reasonable examination of the Goods and You shall be deemed to have accepted the Goods
 - 4.7 You shall be responsible for obtaining all necessary licences and permissions for the import of the Goods into the country of destination
 5. **PRICE AND PAYMENT:**
 - 5.1 Unless otherwise agreed in writing by Us the Price is exclusive of the cost of delivery and VAT
 - 5.2 We reserve the right to increase the Price to reflect any taxes or duties which are or may from time to time be levied by any governmental statutory or local authority upon the sale of the Goods and any necessary additions shall be charged at the rates prevailing at the date of invoice
 - 5.3 Subject to any special terms agreed in writing between Us and You and unless otherwise specified in the Order Confirmation payment for the Goods is due within thirty (30) days of the date of Our invoice (the 'Due Date')
 - 5.4 It is agreed that time is of the essence in respect of payment of the Price and all other sums due hereunder
 - 5.5 If You fail to make payment on the Due Date then without prejudice to any other right or remedy available to Us We shall be entitled to:
 - (a) cancel the Contract and/or suspend any further deliveries to You and
 - (b) charge You interest (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 until payment in full is made (a part of the month being treated as a full month for the purpose of calculating interest) or
 - (c) charge You in accordance with the provisions of the Late Payment of Commercial Debts (Interest) Act 1998
 6. **WARRANTIES AND LIABILITIES:**
 - 6.1 We warrant that the Goods will conform to the Contract specification
 - 6.2 Any defects in the Goods or failure to conform to the Contract specification which should be apparent upon reasonable inspection to You on delivery of the Goods must be detailed on the delivery note by You or Your representative. We shall have no liability to You in respect of any such alleged defects or failure unless so detailed
 - 6.3 Any warranty given by Us in respect of the Goods supplied shall be subject to the following conditions:
 - (a) We shall be under no liability in respect of any defects in the Goods arising from drawing design or specification supplied by You
 - (b) We shall be under no liability in respect of any defects arising from fair wear and tear Your negligence abnormal working conditions failure to follow Our instructions (whether oral or in writing) misuse or alteration or repair of the Goods without Our approval
 - (c) We shall be under no liability under any warranty condition or guarantee if the Price has not been paid by the Due Date
 - (d) We shall be under no liability in respect of any alleged defects in respect of any failure of the Goods to comply with any governmental statutory or other provisions relating to the Goods in the country of destination of the Goods and You acknowledge that it shall be Your responsibility to ensure that the Goods comply with such provisions as may apply to the Goods
 - 6.4 Our sole obligation for breach of the warranties set out in clauses 6.1 and 6.2 above shall be at Our option to grant You a credit at the price at which the Goods were invoiced provided that in all cases the allegedly defective goods are promptly returned to Us carriage paid and have been found after examination by Us not to have complied with the aforesaid
 - 6.5 Subject as expressly provided in these Conditions all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by Law
 - 6.6 Except in respect of death or personal injury caused by Our negligence We shall not be liable to You by reason of any representation or any implied warranty condition or other term or any duty at common law or under the express terms of the Contract for any consequential loss or damage whether for loss of profit or otherwise costs expenses or other claims for consequential compensation whatsoever and whether caused by Our negligence or that of Our employees or agents or otherwise which arise out of or in connection with the supply of Goods or their use or resale by You except as expressly provided in the Conditions
 - 6.7 Our liability hereunder for any delay in performing or any failure to perform any of Our obligations in relation to the Goods shall be limited to the excess if any of the cost to You in the cheapest available market of similar goods to replace those not performed over the Price
 - 6.8 You shall indemnify Us against all claims losses costs and expenses made against or suffered by Us arising from or incurred by reason of any loss injury of damage suffered by a third party and arising out of Your use of the Goods
 - 6.9 You acknowledge that specialist training in the use of the Goods may be required and except as otherwise provided We shall be under no liability in respect of any damage or injury caused by reason of the Goods being used by You or Your employees or agents who have not undergone adequate training in the use of the Goods
 - 6.10 Where the Goods are supplied with the benefit of a guarantee from the manufacturer then We shall be under no liability to You until You have exhausted all rights afforded under the terms of such guarantee
7. **PRIVATE CUSTOMERS:**
 - 7.1 Where the Goods are supplied under a Consumer Transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) Your statutory rights are not affected by the Conditions
 - 7.2 Where the Consumer Protection (Distance Selling) Regulations 2000 apply to the sale of the Goods by virtue of a sale to You as a consumer and concluded through Our website or where an order is placed through Our catalogue the following provisions apply:-
 - (a) You may cancel a Contract at any time within 7 working days beginning on the day after You receive the Goods. In this case You will receive a full refund of the Price paid for the Goods
 - (b) To cancel the Contract You must inform Us in writing within 7 working days beginning on the day after the date of delivery and return the Goods to Us immediately by special delivery in the same condition You received them and at Your own cost and risk and
 - (c) You must take reasonable care of the Goods once they have been delivered
8. **TITLE AND RISK:**
 - 8.1 Risk of damage to or loss of the Goods shall pass to You upon delivery of the Goods
 - 8.2 Notwithstanding delivery and the passing of risk in the Goods or any provision of these Conditions property in the Goods shall not pass to You until We have received in actual cleared funds payment in full of the Price and the price of all other goods agreed to be sold by Us to You for which payment is then due
 - 8.3 Until such time as the property in the Goods passes to You You shall hold the Goods as Our fiduciary agent and bailee and shall keep the Goods separate from those belonging to You and third parties and properly stored protected and insured and identified as Our property
 - 8.4 Until such time as the property in the Goods passes to You We shall be entitled at any time to require You to deliver up the Goods to Us and if You fail to do so forthwith to enter upon Your premises or premises of any third party where the Goods are stored and repossess the Goods
 - 8.5 You shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain Our property but if You do so all monies owing to Us by You shall without prejudice to any other right or remedy of Ours immediately become due and payable
9. **TERMINATION:**
 - Without prejudice to any other right or remedy available to Us We shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability on Our part to You 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 in the event that:
 - (a) You make any voluntary arrangement with Your creditors or become subject to an administration order or being an individual or a firm become bankrupt or goes into liquidation otherwise for the purposes of amalgamation or reconstruction or
 - (b) an encumbrancer takes possession or a receiver is appointed of any of Your property or assets or
 - (c) You cease or threaten to cease to carry on business or
 - (d) You breach any of the Conditions or
 - (e) We reasonably apprehend that any of the events mentioned above is about to occur in relation to You and notify You accordingly
10. **INTELLECTUAL PROPERTY RIGHTS**
 - Copyright and all other forms of intellectual or industrial property rights in the Goods or any brochure or catalogue or manual in which the Goods are depicted or described are vested in Us or as the case may be the manufacturer of the Goods
11. **FORCE MAJEURE:**
 - We shall not be liable for delay or non-delivery by reason of lock-outs strikes riots malicious damage labour disturbances trade disputes government action (including action by any local or statutory authority) fire floods break down of machinery any other cause whatsoever beyond Our control
12. **GENERAL:**
 - 12.1 We may perform any of Our obligations or exercise any of Our rights hereunder Ourselves or through Our employees agents or suppliers
 - 12.2 Any reference in the Conditions to any provisions of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time
 - 12.3 The headings in these Conditions are for convenience only and shall not affect the interpretation
 - 12.4 No waiver by Us of any breach of the Contract by You shall be considered as a waiver of any subsequent breach of the same or other provision
 - 12.5 No failure by Us to exercise any power given to Us or to insist upon the strict compliance by You with any obligation hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute any waiver of any of Our rights under the Contract
 - 12.6 If any provisions of these Conditions are 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 provisions in question shall not be affected thereby
 - 12.7 Any notice given hereunder must be given in writing and delivered or sent by post or facsimile transmission to the residence or principal place of business of the party to whom it is addressed
 - 12.8 Except as otherwise provided nothing in this Contract shall confer on any third party any benefit or the right to enforce any terms of this Contract
 - 12.9 The Contract shall be governed by the Laws of England and subject to the jurisdiction of the English Courts