

# **Terms and Conditions of Sale**

## **1 Interpretation**

1.1 In these Conditions:

'BUYER' means the person who confirms an order for the sale of the Goods

'GOODS' means the goods specified in the Order Form and/or Sales Invoice

'Bleaching Kits and Consumables' mean, the bleaching/whitening kits and all consumable products specified in the Order Form and/or Sales Invoice

'SELLER' means Quicklase Limited (QL) (registered in England and Wales under number 6799623)

'CONDITIONS' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller

'CONTRACT' means the contract for the purchase and sale of the Goods

'ORDER FORM/SALES INVOICE' means the order form/sales invoice to which these Conditions apply and are available on request/web site

'WRITING' includes telex, cable, facsimile transmission and comparable means of communication.

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 the sale**

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with the Order Form/Sales Invoice which is accepted by the Buyer, subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

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

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, installation, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

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

### **3 Orders and specifications**

3.1 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in Order Form.

3.3 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements.

3.4 Once confirmed, an order may not be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

### **4 Price of the goods**

4.1 The price of the Goods shall be the price set out on the Order Form/Sales Invoice. Prices quoted are valid for 30 days only or until earlier acceptance by the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

4.3 Except as otherwise stated on the Order Form/Sales Invoice and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

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

## **5 Terms of payment**

5.1 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods.

5.2 Unless otherwise agreed in Writing by the Seller, the Buyer shall pay the price of the Goods on presentation of the Seller's invoice, and the Seller shall be entitled to recover the price.

5.3 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:

5.3.1 cancel the contract or suspend any further deliveries to the Buyer;

5.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and

5.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3% per annum above HSBC base rate from time to time, until payment in full is made.

5.4 All Goods are subject to 100% money back guarantee within 14 days from the date of delivery providing the goods are returned in its original delivery condition except for Bleaching Kits and Consumables which are non refundable for hygiene purposes.

## **6 Delivery**

6.1 Delivery of the Goods shall be made by the Seller delivering the Goods to the Buyer at such place as is stipulated on the Order Form/Sales Invoice.

6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract.

6.3 If the Goods are delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller 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 Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any)

of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.5 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.5.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

## **7 Risk and property**

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered 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 Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer shall be entitled to use the Goods in the ordinary course of its business.

7.4 Until such time as the property in the Goods passes to the Buyer the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller 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.

7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

## **8 Warranties and liability**

8.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery.

8.2 The above warranty is given by the Seller subject to the following conditions:

8.2.1 the Seller shall be under no liability in respect of any defect in the Goods arising from any specification supplied by the Buyer;

8.2.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse, legalities of Goods used or alteration or repair of the Goods without the Seller's approval;

8.2.3 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;

8.2.4 the above warranty does not extend to Goods, parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller (which, unless otherwise specified shall be 12 months from the date of delivery).

8.3 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.

8.4 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall be notified to the Seller within 7 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 the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller 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.

8.5 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 or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods with the exact model, similar or nearest alternative with equal or higher specification (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

8.6 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

8.6.1 The Seller offers a return to base service for non-warranty goods in respect of repairs. The Buyer will be invoiced for the collection and redelivery and all repair costs, and the Seller shall not be obliged to release the Goods until payment has been made in full.

8.6.2 The Seller shall not be obliged to insure the Goods and risk of damage to or loss of the Goods while at the Seller's premises and during transportation to and from the Seller's premises remains with the Buyer.

8.7 All orders placed and signed for at shows and exhibitions with special price offers are non-refundable unless the Goods do not meet its specification.

8.8 The Seller 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 Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:

8.8.1 Act of God, explosion, flood, tempest, fire or accident;

8.8.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

8.8.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

8.8.4 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party)

## **9. Support**

9.1 Telephone SUPPORT and back to base are offered, in addition the Seller offers an on-site maintenance service. A charge per mile will be made as agreed at the time of the call to cover the costs incurred by the Seller's representative in travelling to and from the Buyer's site unless otherwise agreed. The Seller's charges for carrying out the maintenance service will be subject to a separate invoice which is payable on presentation.

## **10 Sub-Contracting**

10.1 The Seller shall be entitled to sub-contract performance of any of the services provided in accordance with these conditions.

## **11 Insolvency of buyer**

11.1 This clause applies if:

11.1.1 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

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

11.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

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

11.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller 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.

## **12 General**

12.1 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 of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.2 No waiver by the Seller 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.

12.3 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.

12.4 Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of The Law Society.

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