

# TERMS & CONDITIONS

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## GENERAL

**Contract Terms.** These terms and conditions constitute an integral part of any offer made by Duster Limited. to sell goods and services. Any additional or different terms or conditions proposed by Buyer are hereby declined.

**Acceptance.** No order by Buyer, regardless of whether a deposit has been accepted, shall be binding upon Duster Limited. until a credit review has been completed, and an authorized representative of Duster Limited has accepted the order. All sales shall be made only upon the terms and conditions set forth herein. This invoice (and not any purchase order or other document of Buyer) shall be deemed an offer or counter-offer. Buyer, by accepting the Products, shall be deemed to have assented to the terms and conditions set forth in this invoice or other document hereafter sent by Seller, notwithstanding any terms contained in any prior or later communication from Buyer and whether or not Seller shall specifically or expressly object to any such terms. The terms and conditions set forth herein may in some instances conflict with some of the terms and conditions set forth in the purchase order or any other document or any other communication from Buyer. Same shall not be deemed a waiver of any of the terms hereof. Any changes in the terms and conditions set forth herein must be specifically agreed to in writing by a duly authorized officer of Seller before becoming binding on either Buyer or Seller.

**Modification.** This agreement may not be changed, modified, or amended, except in writing signed by authorized representative of the parties. Duster Limited shall have the right to change the design, dimensions, weight and specification for the goods when necessary, provided that such change does not impair the performance or function of the goods or their utility to Buyer.

**Assignment.** Buyer shall not assign this order, any interest therein, or any rights there under without prior written consent of Duster Limited.

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## PRICES

**Quotations.** Unless otherwise stated, all prices quoted by Duster Limited, are based on Bangladesh Taka FOB shipping point, include domestic packaging and are subject to change.

**Transportation and Insurance.** Transportation and insurance shall be provided by common carrier, at Buyer's risk and expense with the charges therefore added to the quoted prices, unless otherwise specified in writing.

Delay in Acceptance of Delivery. Should the delivery date be postponed by Buyer, Duster Limited shall have the right to adjust the price of the undelivered goods to current Duster Limited prices at the time of shipment.

Escalation. Unless otherwise agreed in writing, except for those goods to be delivered within three (3) days of Duster Limited, Inc.'s acceptance of Buyer's order, Duster Limited reserves the right to increase its prices to those in effect at the time of shipment.

## TAXES

Any sales, use or manufacturer's tax which may be imposed upon the sale or use of goods, or any property tax levied after readiness to ship, or any excise tax license or similar fee required under this transaction, shall be paid by Buyer in addition to the quoted prices. If Buyer is exempt from any taxes, Buyer shall furnish to Duster Limited a tax exemption certificate acceptable to the tax authority.

## TERMS OF PAYMENT

Due Date. Unless otherwise agreed, the terms are, wire transfer in advance or cash on delivery, upon receipt of goods. All charges are payable in US dollars.

Late Payment. A service charge of (18%) eighteen percent annual (daily periodic rate of 0.049315%), not to exceed the maximum rate allowed by law, will be applied on any portion of Buyer's outstanding balance, which is not paid after the due date.

## DELIVERY, RISK OF LOSS, AND SHIPMENT

Delivery Date. Delivery and completion schedules are approximate only and are based on conditions at the time of acceptance of Buyer's order.

Risk of Loss. Unless otherwise agreed in writing, delivery shall be complete upon transfer of possession to common carrier, FOB shipping point, where upon all risk of loss, damage or destruction to the goods shall pass to Buyer.

Shipment. In the absence of a written agreement to the contrary, the means of shipment will be at the discretion of Duster Limited. reserves the right to make partial shipments and to submit invoices for partial shipment.

## TITLE

Legal title to the goods furnished on this invoice is reserved by Duster Limited as security for payment.

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## CHANGES AND CANCELLATIONS

Orders accepted by Duster Limited are not subject to change or cancellation by Buyer except with Duster Limited, Inc.'s written consent. In the event of change or cancellation of any order for any reason and without limiting any other remedy which Duster Limited may have as a result of such change or cancellation under the Uniform Commercial Code then in effect in the state of New Jersey, Buyer shall pay Duster Limited a reasonable cancellation or restocking charge to cover the costs incurred by Duster Limited.

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## RETURN POLICY

All returns are subject to a 20% restocking charge. No returns will be accepted by Duster Limited unless accompanied by a Duster Limited Return Material Authorization (RMA) number and unless shipped freight prepaid by sender to Duster Limited.

In case of incorrect shipment or goods that are damaged during the shipment, Duster Limited must be informed in writing within twenty-four (24) hours after receipt of goods.

To obtain credit for returned goods, Buyer must obtain an RMA number within seven (7) days of the invoice date. The returned goods must be in an original condition upon receipt by Duster Limited. Credit for any returned goods will be eighty percent (80%) of the invoice amount.

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## FORCE MAJEURE

Duster Limited will make every effort to complete shipment, and installation where indicated, but it shall not be liable for any loss or damage, or for delay of a delivery or inability to install, arising out of causes beyond its reasonable control, including, but not limited to fire, acts of God, acts of government or compliance with any government rules or regulations.

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## WARRANTY

Unless otherwise agreed in writing, Duster Limited warrants the goods sold hereunder (assemblies and products which are not assemblies) against defects in the normal use thereof which arise solely from faulty materials or workmanship for a period of one (1) year after delivery thereof.

The term (assemblies), as used herein shall mean only those products which are assembled by Duster Limited and shall not include component parts to any assembly sold by Duster Limited which components parts are in and of themselves finished products. In case of products which are not assemblies, the warranty delivered to Duster Limited by the manufacturer or other vendor thereof, shall, to the extent such assignment is permitted by the terms thereof, be assigned to the buyer and shall be expressly in lieu of any other warranty, express or implied of or by Duster Limited, Inc.

No warranty extended by Duster Limited shall apply to any goods, which have been modified or altered by persons other than Duster Limited authorized personnel, or to goods that are defective due to misuse, neglect, improper installation, soldering or accident, or to goods sold as "used".

The foregoing warranty and buyer's exclusive remedy thereunder, shall be limited to Duster Limited Inc.'s election to any one of: (i) refund of buyers purchase price subject to the above mentioned return policy clause (without interest), or (ii) repair by Duster Limited, Inc., or by persons designated by Duster Limited, Inc., of any products found to be defective in violation of the foregoing warranty, or (iii) replacement of any such products.

THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND BY SELLER OR ANY PERSON WHO IS AN AGENT, EMPLOYEE, OR OTHER REPRESENTATIVE OR AFFILIATE OF SELLER, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION OR PERFORMANCE OF ANY PRODUCT, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR WITH RESPECT TO ANY OTHER MATTER RELATING TO ANY PRODUCTS.

Except for Buyer's sole and exclusive remedies set forth in the foregoing paragraph, Seller shall have no liability or obligation to Buyer or any other persons for any claim, loss, damage or expense of any kind caused in whole or in part, directly or indirectly, by the inadequacy of the Products for any purpose, any deficiency or defect in any Products whether or not covered by any warranty, the use or performance of any Products, and interruption or loss of service use or performance of any Products or any special, direct, indirect, incidental or consequential damage, including without limitation, personal injury or loss of business or profits, or other damage, whether or not Buyer shall has informed Seller of the possibility or likelihood of such or any other damages. Buyer agrees to indemnify and hold Seller harmless from any and all liabilities, loss, cost or damage described in the preceding sentence, except for the sole and exclusive remedies set forth in the foregoing paragraph, from claims from any party or parties (including without limitation, claims by Buyer's customers, employees, contractors, subcontractors and agents or their respective employees and workers' compensation insurance companies) for personal injuries or death or damage to property (tangible and intangible) arising out of the existence or use of the Products or any defect in the Products, whether or not such liability, loss, cost or damage is occasioned in whole or in part by any actual or alleged act or omission of Seller, its representatives, employees, subcontractors, vendors or suppliers, or by any defect in the Products whether or not it is contended that Seller contributed thereto in whole or in part or was responsible therefore by reason of a non-delegable duty.

Duster Limited reserves the right to grant credit for the value of the goods found to be defective under the terms of the warranty. This warranty is made on the express conditions, that (1) immediate written notice of any defect to be given to Duster Limited and (2) Duster Limited, Inc.'s inspection reveals that Buyer's claim is valid under the terms of the warranty.

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## LIMITATIONS OF LIABILITY

In no event shall Duster Limited be liable for any loss of use, revenue, profit, custom, or for any direct, indirect consequential or punitive damages, arising out of, connected with, or resulting from the sale or use of the goods furnished hereunder.

## INSTALLATION

Unless otherwise stated in writing, the goods furnished hereunder shall be installed by and at the expense of Buyer. In the event that any installation is to be performed by Duster Limited, Inc., Buyer shall be responsible for securing all requisite governmental permits, as well as complying with all local union rules and building codes.

## PATENT, TRADEMARK AND OTHER INFRINGEMENT CLAIMS

Should Buyer receive a claim that any goods furnished hereunder, or parts thereof, infringe upon the rights of others, Buyer shall notify Duster Limited immediately in writing, and Buyer shall give Duster Limited information, assistance, cooperation and exclusive authority to evaluate or defend or settle such claims.

Duster Limited shall then, at its option defend or settle such claims, procure for Buyer the right to use this product, remove or modify it to avoid infringement or remove the goods and refund the purchase price, less reasonable depreciation; however should a claim be made that any goods sold hereunder, or parts thereof, which were made by Duster Limited pursuant to drawings or specifications furnished by Buyer infringe upon the rights of others, Buyer shall indemnify and hold Duster Limited harmless against any liability or expense, including reasonable attorneys' fees, incurred by Duster Limited in connection therewith.

Any product or part not manufactured by Duster Limited which is part of or has been incorporated in the goods sold hereunder, is furnished subject to the manufacturer's patent and/or warranties, if any, and without warranties expressed or implied by Duster Limited, Inc.

## DISCLOSURE

Any drawings, data, designs, software programs or other technical information supplied by Duster Limited to Buyer in connection with the sale of goods shall remain Duster Limited, Inc.'s property and

held in confidence by Buyer. Such information shall not be reproduced or disclosed to other without Duster Limited's prior written consent.

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## ARBITRATION

Any controversy or claim arising out of or relating to this contract or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Hearings shall be held in the New Jersey offices of the American Arbitration Association.

## ADDENDUM TO AGREEMENT

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Duster Limited shall reserve and retain title to the goods delivered under the terms of this agreement until Duster Limited receives from Buyer any and all outstanding payments due or to be collected in the future under this agreement.

Duster Limited has all rights of sale or of process as to the said goods even after delivery, and Duster Limited shall be regarded as a "manufacturer" in accordance with Section 950 BGB (German Civil Code). In the event said goods are processed, incorporated or combined with other goods, the Buyer hereby transfers its interest to Duster Limited to secure the debt (s) or receivables resulting from said business relation (s) between Duster Limited, Inc and Buyer as to said goods resulting from the processing, incorporation or combination, in such proportion for the benefit of Duster Limited as the value of the delivered goods shall relate to the newly manufactured goods and stock.

In the event the value of said collateral exceeds the debt (s), receivable (s) by more than 20%, Duster Limited on demand of Seller shall correspondingly release collateral.

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## RETENTION OF TITLE

The delivery items remain the property of Duster Limited until payment is made for all sums due to Duster Limited arising from the business relationship with the Buyer. To the extent that payment of the purchase price due is agreed with the Buyer in the form of a cheque/bill of exchange, retention also extends until the bill of exchange accepted by Duster Limited is honored by the Buyer and is not extinguished when the received cheque is credited.

The Buyer is permitted to sell onward the supplied goods as part of ordinary business unless the payments arising from the onward sale have already been assigned to others. If the goods are not paid for immediately, the Buyer himself is obliged to sell the goods onward under retention of title. The

entitlement to sell onward lapses if the Buyer stops payment or in case of the Buyer's imminent illiquidity or in the event of declaration Buyer's bankruptcy.

The Buyer assigns now already to Duster Limited the payments accruing to him from the onward sale to the amount of the final invoice including VAT arising from the delivery transaction between the Supplier and Buyer, irrespective of whether the delivery items have been sold onwards before or after processing, linkage or mixing. The Buyer is not authorized to collect the assigned payments for as long as he meets his payment obligation towards Duster Limited and does not become insolvent. The Buyer must inform Duster Limited of the names of the debtors of the assigned payment claims and the amount of request. Duster Limited is authorized to inform the debtors of the assignment.

Processing or transforming of the delivery item by the Buyer is always undertaken for Duster Limited without any obligations arising to the latter there from. If the delivery item is processed with other objects which are not the property of Duster Limited, Inc., Duster Limited acquires the co ownership in the matter in relation to the value of the delivery item to the other processed objects at the time of processing. In all other respects, the matter arising through processing has the same conditions attached as the object under retention.

If the delivery item is linked with other objects which are not to the property of Duster Limited, Inc., Duster Limited acquires co-ownership in the new matter in relation to the value of the delivery item to the other processed objects at the time of processing. If linkage takes place such that the matter of Duster Limited must be considered the main matter, it is deemed to have been agreed that the Buyer transfers the proportionate ownership to Duster Limited the Buyer maintains the sole ownership or co-ownership thus arisen for Duster Limited The same applies to the mixing of the object with other objects not belonging to Duster Limited, Inc.

The Buyer may neither pledge the object or assign it as security. He must inform Duster Limited immediately in the event of attachment, arrest or other disposal by third parties. Any costs arising from the intervention of Duster Limited are born by the Buyer.

If the Buyer acts in contravention of the contract, particularly as regards default of payment, Duster Limited is entitled to repossession after issuing a reminder with an appropriate period, and the Buyer is obliged to surrender the delivery item. Assertion of retention of title as well as the attachment of the delivery item by Duster Limited are not deemed to be a withdrawal from the contract unless the law on consumer credit applies.

To the extent that the value of all Duster Limited collateral security rights arising from the business relationship with the Buyer exceed the value of all secured claims by more than 20%, Duster Limited will release a part of the collateral security rights at the request of the Buyer; Duster Limited is entitled to select the collateral securities to be released.