

Policy SGP-005 · Revision 04 · 30/11/2021 · Governed by the laws of England and Wales

THE BUYER'S ATTENTION IS DRAWN IN PARTICULAR TO CLAUSE 11 — LIMITATION OF LIABILITY

These Conditions govern all sales of goods by Stuga Machinery Limited (company registration number 05744259) of Edison Way, Great Yarmouth, NR31 0NG.

1 — Definitions

1.1	Buyer	The Account Applicant or person who buys or agrees to buy Goods from the Seller.
1.2	Conditions	The Conditions of Sale set out in this document, and any special conditions agreed in writing by the Seller.
1.3	Contract	The contract between the Seller and the Buyer for the sale and purchase of the Goods in accordance with these Conditions.
1.4	Goods	The goods or any part of them set out in the Order.
1.5	Order	The Buyer's order for the Goods as set out in a purchase order or the Buyer's written acceptance of the Seller's quotation.
1.6	Price	The price of the Goods.
1.7	Seller	Stuga Machinery Limited (company registration number 05744259) of Edison Way, Great Yarmouth, NR31 0NG.

2 — Conditions and Basis of Contract

2.1	Exclusion of Other Terms	The Contract shall be deemed to incorporate these Conditions, to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
2.2	Order as Offer	The Order constitutes an offer by the Buyer to purchase the Goods for the Price in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order and any applicable specification are complete and accurate.
2.3	Acceptance	The Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Order, at which point the Contract shall come into existence.
2.4	Variations	No variation of these Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

3 — Price

3.1	Quotations	The Price shall be set out in a quotation given to the Buyer following an enquiry relating to the Goods. Quotations are valid for 30 days.
3.2	Price Increases	The Seller may, by giving notice to the Buyer at any time before delivery, increase the Price to reflect any increase in the cost of the Goods due to: (a) any factor beyond the Seller's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); (b) any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered; or (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give adequate or accurate information or instructions.
3.3	VAT and Delivery	The Price is exclusive of VAT and charges for packing, postage and delivery (plus VAT), which shall be paid by the Buyer in addition.
3.4	Deposit and Final Payment	The Seller may request one or more deposit payments and a delivery charge to be paid in advance prior to delivery of the Goods, with the final balance to be paid in full within 28 days of delivery of the Goods to the Buyer.
3.5	Other Sales	In the case of other sales, payment is due in full within 30 days from the date of the Seller's invoice.
3.6	Credit Terms	The Seller may agree different credit terms, in its sole discretion, and these will be confirmed in writing to the Buyer.
3.7	Time of the Essence	Time for payment of the Seller's invoice shall be of the essence of the Contract. Any failure to pay shall entitle the Seller at its option to treat the Contract as repudiated by the Buyer or to delay delivery until paid.
3.8	Insolvency	If any act or proceedings shall be commenced in which the Buyer's solvency is concerned, all monies under any transaction covered by these Conditions shall become immediately due and payable.
3.9	No Set-Off	All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

4 — Interest on Overdue Invoices

- 4.1 Interest on Late Payment** If the Buyer fails to make a payment due to the Seller under the Contract by the due date, then, without limiting the Seller's remedies, the Buyer shall pay interest on the overdue sum from the due date until payment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5 — Warranty and Liability

- 5.1 Seller's Warranty** The Seller warrants that the Goods will at the time of delivery correspond to the description given by the Seller and shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979. All other warranties, conditions or terms relating to fitness for purpose, merchantability or condition of the Goods, whether implied by statute, common law or otherwise, are excluded.
- 5.2 Buyer Suitability Confirmation** The Buyer is satisfied as to the suitability of the Goods for the Buyer's purpose.
- 5.3 Repaired or Replacement Goods** These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

6 — Delivery

- 6.1 Delivery Dates** Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery caused by a force majeure event or the Buyer's failure to provide adequate delivery instructions.
- 6.2 Completion of Delivery** Delivery of the Goods is completed on the completion of unloading or delivery at the Buyer's address. The Buyer shall make all arrangements necessary to take delivery of the Goods.
- 6.3 Failure to Deliver** If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 6.4 Instalment Deliveries** The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract.

7 — Ownership and Risk

- 7.1 Risk** The risk in Goods shall pass to the Buyer upon delivery of the Goods, or upon the Goods being appropriated to the Buyer but kept at the Seller's premises at the Buyer's request.
- 7.2 Title Retention** The Seller remains the owner of the Goods until the Seller has been paid in full for such Goods.
- 7.3 Inspection and Notification** The Buyer shall inspect the Goods immediately upon receipt and shall notify the Seller within a reasonable time of delivery if the Goods are damaged or do not comply with any of the Contract. If the Buyer fails to do so, they are deemed to have accepted the Goods.
- 7.4 Preservation of Goods on Claim** Any Goods in respect of which a claim of defect or damage is made shall be preserved by the Buyer intact with the original packing and either: (a) retained by the Buyer for a reasonable period to enable the Seller or its agent to inspect or collect the Goods; or (b) at the Seller's option, returned by the Buyer to the Seller, who will refund the cost of postage and packing if the Goods are in fact defective.
- 7.5 Buyer Obligations Until Title Passes** Until ownership of the Goods has passed to the Buyer, the Buyer shall: (a) store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property; (b) not remove, deface or obscure any identifying mark or packaging; (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; (d) notify the Seller immediately if it becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(d); and (e) give the Seller such information as the Seller may reasonably require relating to the Goods and the ongoing financial position of the Buyer.

8 — Cancellation and Returns

- 8.1 Bespoke Goods** Bespoke Goods made to the Buyer's specification cannot be returned.
- 8.2 Non-Bespoke Returns** In the case of Goods that are not bespoke, any request to return them must be made to the Seller within 14 days of delivery, setting out the reasons for the desire to return. If the Seller agrees to a return: (a) a Goods Return number must be obtained from the Seller and clearly shown on the returned parcels; (b) the Buyer will be liable for the cost of remedying any damage to the returned Goods caused by inadequate packaging; (c) the Seller reserves the right to make a handling and restocking charge of 25% on Goods returned if ordered in error or no longer required; and (d) the Buyer shall pay the costs of returning the Goods to the Seller (except where the Goods are misdescribed or faulty) and is advised to ensure the goods are adequately insured during any return journey.

9 — Force Majeure

9 In the event that the Seller is prevented from carrying out its obligations under the Contract as a result of any cause beyond its control — such as but not limited to acts of god, war, strikes, lock-outs, flood and failure of third parties to deliver goods — the Seller shall be relieved of its obligations and liabilities under the Contract for as long as such circumstances exist.

10 — No Waiver

10 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

11 — Limitation of Liability

- 11.1 Scope** The restrictions on liability in this clause apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 11.2 Liability That Cannot Be Limited** Nothing in the Contract limits any liability which cannot legally be limited, including liability for: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or (d) defective products under the Consumer Protection Act 1987.
- 11.3 Cap on Liability** Subject to clause 11.2, the Seller's total liability to the Buyer shall not exceed the price of the Goods paid for by the Buyer.
- 11.4 Wholly Excluded Loss Types** Subject to clause 11.2, the following types of loss are wholly excluded:
- Loss of profits
 - Loss of sales or business
 - Loss of agreements or contracts
 - Loss of anticipated savings
 - Loss of use or corruption of software, data or information
 - Loss of or damage to goodwill
 - Indirect or consequential loss
- 11.5 Survival** This clause shall survive termination of the Contract.

12 — Complaints

- 12.1 Raising Complaints** Complaints about Goods should be raised immediately with the Seller using the contact details in clause 15.4. The Seller aims to respond as soon as possible and within 5 working days.
- 12.2 Handling** All complaints will be dealt with in a fair and confidential manner.

13 — Assignment and Other Dealings

- 13.1 Seller Assignment** The Seller may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 13.2 Buyer Restrictions** The Buyer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Seller.

14 — Termination

- 14.1 Immediate Termination by Seller** Without limiting its other rights or remedies, the Seller may terminate this Contract with immediate effect by giving written notice to the Buyer if: (a) the Buyer commits a material breach of any term of the Contract and (if remediable) fails to remedy that breach within 14 days of being notified in writing to do so; (b) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors; (c) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or (d) the Buyer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 14.2 Suspension** Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(d), or if the Buyer fails to pay any amount due under this Contract on the due date.
- 14.3 Termination for Non-Payment** Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.
- 14.4 Outstanding Amounts on Termination** On termination of the Contract for any reason, the Buyer shall immediately pay to the Seller all outstanding unpaid invoices and interest.
- 14.5 Accrued Rights** Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry.
- 14.6 Survival of Provisions** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry shall remain in full force and effect.

15 — Other Provisions

15.1	Governing Law	The Contract, and any dispute or claim arising out of or in connection with it, shall be governed by and construed in accordance with the law of England and Wales.
15.2	Jurisdiction	Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract.
15.3	Severance	If any part of these terms and conditions that is not fundamental is found to be illegal or unenforceable, such finding will not affect the validity or enforceability of the remainder of these terms and conditions.
15.4	Contact Details	The Seller can be contacted by telephoning the customer service team on 01493 742348, by writing to Edison Way, Great Yarmouth, NR31 ONG, or by email at service@stuga.co.uk .