

1. GENERAL

- 1.1 In these Conditions:
- "Godiva" refers to GODIVA LIMITED;
 - "the Customer" includes any company, corporation whether privately or publicly owned, firm, person, partnership, government department, branch or division of Her Majesty's Services to whom a proposal or quotation is issued by Godiva, or who places an order with Godiva, for the supply of goods or other items;
 - "these Conditions" means the standard terms and conditions of sale set out in this document, and "the Conditions" means the standard terms and conditions of sale set out in this document and any separate special terms and conditions agreed in writing between Godiva and the Customer; and
 - "the Goods" means all goods and other items which are supplied to the Customer by Godiva under any order (whether placed in writing, electronically, verbally or otherwise) placed with Godiva by the Customer.
- 1.2 Any reference in the Conditions to any provision of a statute or statutory instrument shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.3 The headings in the Conditions are for convenience only and shall not affect their interpretation.
- 1.4 All quotations issued by Godiva for any goods or other items are accepted upon and subject to the Conditions and any qualification thereto or different, conflicting or additional terms or conditions contained in any request for proposal or quotation, order or other document or communication from the Customer relating to the goods or other items offered in the quotation shall be totally void unless and except to the extent agreed in writing by Godiva.
- 1.5 In the event of any inconsistency between the standard terms and conditions of sale set out in this document and any separate special terms and conditions agreed in writing between Godiva and the Customer, the provisions of the special terms and conditions shall prevail to the extent of the inconsistency, and, in the event of any inconsistency between the Conditions and any document referred to in the Conditions, the provisions of such other document shall prevail to the extent of the inconsistency.

2. ACCEPTANCE

- 2.1 The Customer shall, upon placing an order for the Goods, be deemed to have accepted in full the Conditions to the exclusion of any different, conflicting or additional terms or conditions put forward (whether with its order or otherwise) by the Customer, and be obligated to strictly comply therewith.
- 2.2 A quotation by Godiva does not constitute an offer and Godiva reserves the right to withdraw or revise any quotation at any time prior to Godiva's acceptance of the Customer's order.
- 2.3 In placing an order for Goods, the Customer acknowledges that Godiva does not make and the Customer does not rely on, and the Customer waives any claim for breach of, any warranty, representation, guarantee, undertaking or commitment other than as expressly set forth in the Conditions or given to the Customer in writing by a director of Godiva, and Godiva shall not be liable for any advice given by its employees or agents as to the storage, application, appropriateness, fitness or use of the Goods unless such advice is confirmed to the Customer in writing by a director of Godiva.
- 2.4 A request to delay or change shipment after a Good has been scheduled for production or shipment may result in a price increase and/or additional charges, including warehousing and

rescheduling charges. If the requested delay or change in shipment exceeds 90 days, the request may, at the sole discretion of Godiva, be treated as a request for cancellation.

- 2.5 All requests to cancel an order must be submitted to Godiva in writing in accordance with Clause 17.4 of these Conditions.
- 2.6 Godiva normally permits orders for catalogue items in standard quantities to be cancelled at any time prior to shipment without penalty. Orders for non-catalogue items, custom-configured and other special order items may be cancelled only upon payment of cancellation charges as determined by Godiva. Cancellation charges may include production cost, engineering expense, selling expense, a reasonable amount for overhead, and a reasonable amount for profit. If an order includes items to special specifications or sizes or of types not in general production, cancellation charges will include payment for all special work. A minimum 20% cancellation charge may be payable by the Customer.

3. PRICE AND TERMS OF PAYMENT

- 3.1 Whilst Godiva endeavours to maintain the price or prices in its proposals and quotations for the period specified therein, it does not undertake to absorb increases in the cost of raw materials, bought out materials, labour or otherwise that have been brought about subsequent thereto and affect the subject matter of the proposal or quotation through reasons beyond the control of Godiva. In such instances Godiva reserves the right to deliver a fresh proposal or quotation to the Customer who shall be at liberty to accept or reject such proposal or quotation within fourteen days of receipt thereof (such acceptance or rejection to be made in writing by the Customer), provided that rejection shall not prejudice the existing rights of Godiva against the Customer in any way.
- 3.2 The price is exclusive of Value Added Tax and all other taxes, duties and imposts (apart from corporation taxes referable to income or capital gains of Godiva), which taxes and duties shall be payable by the Customer.
- 3.3 All freight charges are subject to variations beyond Godiva's control and the right is therefore reserved to make such adjustments to any such charges specified in a proposal or quotation or specified in Godiva's price lists to conform with circumstances obtaining at the date of despatch from Godiva's works as may be deemed in Godiva's absolute discretion to be necessary.
- 3.4 Unless otherwise agreed, all prices are strictly net of any taxes, duties or imposts, and invoices issued by Godiva must be paid in full within thirty days of the date thereon, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The Customer shall not be entitled to make any deduction from such payment or exercise any right of set-off or contribution howsoever arising. The time of payment of the price shall be of the essence of the contract.
- 3.5 In the event of any invoice remaining unpaid more than thirty days of the date thereon, then, without prejudice to any other right or remedy available to Godiva, Godiva shall have the right to charge interest on the overdue amount at an annual rate of 4% per annum above the base rate from time to time of National Westminster Bank, which interest shall accrue on a daily basis from the date payment becomes overdue until Godiva has received payment of the overdue amount together with all interest that has accrued.
- 3.6 Notwithstanding anything to the contrary expressly or impliedly contained in the Conditions, Godiva shall have the absolute discretion to refuse or limit the amount of credit given to the Customer or to limit or withhold deliveries without assigning any reason therefor.
- 3.7 Godiva reserves the right to require a letter of credit in connection with any order. For requirements concerning letters of credit, see separate document titled 'Opening Letters of Credit for Goods Ordered on Godiva Ltd' which can be found in the Godiva Price List and on the

website www.godiva.co.uk. The document may also be obtained by contacting Godiva Customer Service at +44 (0)1926 623600.

4. DELIVERY

- 4.1 Godiva does not accept any late delivery penalty clauses except as may be agreed in writing by a director of Godiva.
- 4.2 Any time of delivery given in a proposal or quotation shall be deemed to date from the receipt by Godiva of an official order from the Customer together with all drawings, specifications or other information necessary to enable Godiva to execute the order. All such times are estimates only, and whilst Godiva undertakes to use reasonable endeavours to maintain the proposed or quoted delivery schedule, it shall in no way be liable for failure to despatch within such time unless a separate written guarantee of the delivery schedule signed by a director of Godiva shall have been given to the Customer.
- 4.3 The time of delivery shall in any case be extended to a date reasonable in all the circumstances should failure to deliver be caused by the Customer's instructions or lack thereof or by any act of force majeure as defined in Clause 12.1 of these Conditions.
- 4.4 Unless otherwise agreed in writing by Godiva and the Customer, all Goods are delivered EXW (Incoterms 2010) Godiva's Warwick facility and despatched at the Customer's expense.
- 4.5 Each partial delivery or installment of the Goods despatched shall be deemed to be sold under a separate contract and no default by Godiva in respect of any partial delivery or installment shall entitle the Customer to treat the contract as repudiated as regards any balance or installment still remaining to be delivered.

5. IMPORT AND EXPORT

- 5.1 The Customer shall be responsible for complying with any and all applicable legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties and imposts thereon.
- 5.2 The Customer shall be responsible for complying with any legislation governing the exportation of the Goods and, in particular, the Customer shall:
 - 5.2.1 not export outside the UK any Goods covered by the Export of Goods (Control) Order 1994 (as amended) or the US Export Administration Act of 1979 (as amended) A or any other applicable Export Control laws, regulations or guidelines without obtaining all necessary licenses thereunder and shall not resell such Goods to another party if the Customer knows (or is given reasonable grounds to suspect) that such other party intends to export or re-export such Goods to any person or country or in any other manner that requires any such license without first obtaining either such license itself or a copy of such license obtained by such other party.
 - 5.2.2 impose on persons purchasing such Goods obligations corresponding to those set out above; and
 - 5.2.3 keep all records relating to any such transaction for at least five years.

6. TESTS AND PERFORMANCE

Godiva will make any pump under construction available for witness test during final stage of manufacture. This test will be limited to confirming the rated performance and at a time reasonably notified by Godiva and, if held at such time, will, in the absence of the Customer, be deemed to have taken place in the presence of the Customer. Further tests can be carried out to at the request of the Customer by prior arrangement and at previously agreed additional cost. Test certificates covering rated performance are available for all Godiva and Hale brand pumps if called for by the Customer.

7. RETURNS

- 7.1 Godiva will consider (but has no obligation to accept) returns of items shipped within the last 120 days. No returns shall be accepted by Godiva unless accompanied by a Return Goods Authorization (RGA) issued by Godiva. Godiva shall have no obligation to issue an RGA. In order to be returnable, items must be new, unused, the same as items currently being offered for sale by Godiva, and in their original packaging with all associated documents, including user manuals. Items which are no longer available, discontinued, obsolete, or special order/production, or otherwise deemed not returnable will not be accepted for return. Godiva reserves the sole right to determine the returnability of the items. Items which are received in non-returnable condition will be handled in one of the following ways:
- Destroyed with Customer's approval
 - Returned to Customer at its risk and expense
 - Refurbished and returned to Customer at its risk and expense with its approval
 - Partial credit issued to Customer at the sole discretion of Godiva
- 7.2 Godiva will have no responsibility or liability in connection with items returned without an RGA. Returns arriving without an approved RGA may be refused. All items returned must be properly packed and identified in accordance with the RGA.
- 7.3 All costs and expenses associated with returns shall be borne by Customer. Return costs and expenses may include labor, material, administrative, and any other costs and expenses arising out of the return.
- 7.4 A minimum 20% restocking charge may be payable by the Customer on all returns. If credit is to be allowed on returned items, any credit will be subject to and conditioned the receipt of the returned items in new, unused, undamaged and saleable condition.
- 7.5 Godiva may accept a return and waive the restocking or cancellation fee in the event Godiva had made an error such as an incorrect part number or a duplicate order or other similar circumstance.
- 7.6 All returns are at Customer's sole risk and expense, and any shipping charges on returned items shall be paid by Customer. No collect shipments will be accepted unless authorized in writing in advance by Godiva.

8. WARRANTY

Products sold by Godiva under the Godiva brand are warranted by Godiva as set forth in the separate document entitled "Warranty Statement for Godiva Brand Products", and products sold by Godiva under the Hale and Class 1 brands are warranted by Hale Products Inc. as set forth in the separate document entitled "Warranty Statement for Hale and Class 1 Brand Products". Both Warranty Statements can be found in the Godiva Price List and on the website www.godiva.co.uk. Both Warranty Statements may also be obtained by contacting Customer Service at +44 (0)1926 623600. THE WARRANTIES MADE IN THE WARRANTY STATEMENTS ARE THE SOLE AND EXCLUSIVE WARRANTIES MADE WITH RESPECT TO GOODS AND ARE IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS, REPRESENTATIONS, GUARANTEES OR OTHERWISE, EXPRESS OR IMPLIED, , INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, ALL OF WHICH OTHER WARRANTIES ARE EXPRESSLY EXCLUDED.

9. TITLE TO THE GOODS

- 9.1 Notwithstanding delivery and the passing of risk in the Goods, the property, legal or beneficial, in the Goods shall only pass to the Customer when Godiva has received full payment for all sums then owed by the Customer to Godiva for the Goods.

- 9.2 Goods in respect of which the property has remained with Godiva shall be kept identifiable as those of Godiva, and the Customer shall at its own expense keep the Goods insured and, also at its own expense, shall immediately return such Goods to Godiva, or permit Godiva to enter into Customer's premises to collect such goods should Godiva so request.
- 9.3 The risk of loss and damage to the Goods shall pass to the Customer immediately upon delivery.

10. PATENT AND DESIGN RIGHTS

- 10.1 Godiva and its affiliated companies have and retain exclusive ownership of all patent, design, trademark, copyright and other intellectual property rights relating to their products.
- 10.2 All drawings, specifications and technical data relating to products of Godiva and its affiliated companies are and remain their exclusive property, and Godiva and its affiliated companies have and retain ownership of all copyright and other intellectual property rights therein. Such drawings, specifications and technical data must not be used for any purpose other than for which they are supplied, nor reproduced, nor copied, nor used for the purpose of manufacture without the consent in writing of a director of Godiva.

11. DESIGNS, MATERIALS, COMPONENTS AND DISCONTINUANCE

- 11.1 Godiva and its affiliated companies may make changes and modifications to the design of any item at any time without affecting any order or making the same changes and modifications to any previously produced or sold item. Items shown in catalogs, advertisements or other literature may vary from the actual items shipped in design, look or content. Godiva and its affiliated companies may substitute materials, components and parts for any item at any time without affecting any order or making the same changes and modifications to any previously produced or sold item. Godiva and its affiliated companies may discontinue the production and sale of any item at any time without incurring any liability or obligation in connection with any order or any previously produced or sold item.

12. TERMINATION

- 12.1 Godiva shall be entitled without prejudice to its other rights either to terminate wholly or in part any or every contract currently in existence between itself and the Customer or to suspend any further deliveries under any or every such contract without any liability to the Customer in any of the following events:
 - 12.1.1 If any debt payable to Godiva or any of its affiliated companies by the Customer is not paid when due.
 - 12.1.2 If the Customer has failed to take delivery of any goods under any contract between it and Godiva or any of its affiliated companies otherwise than in accordance with the Customer's contractual rights.
 - 12.1.3 If the Customer becomes insolvent, or, being a body corporate, passes a resolution for voluntary winding up except where solely for the purpose of reconstruction or has suffered an order of the Court for its winding up to be made or has had a receiver appointed or being an individual or partnership has suspended payment wholly or in part of his or their debts, or has proposed or entered into any composition or arrangement with his or their creditors or has had a Receiving Order in Bankruptcy made against him or them, or has ceased, or threatens to cease, to carry on business.
- 12.2 In any case, Godiva's rights shall not be prejudiced or restricted in any way by any indulgence or forbearance extended to the Customer in respect of any breach or default by Customer, whether in this clause contained or otherwise, and no waiver by Godiva in respect of any breach or

default by Customer shall operate as a waiver in respect of any subsequent breach or default by Customer.

13. FORCE MAJEURE

- 13.1 Godiva shall not be liable to the Customer for any loss or damage which may be suffered by the Customer as a direct or indirect result of the supply of any Goods by Godiva being prevented, hindered, delayed or rendered uneconomic by reason of circumstances or events beyond Godiva's reasonable control, including (but not limited to) Act of God, operation of laws or regulations of any government (including but not limited to the Export of Goods (Control) Order 1994 (as amended) and US Export Administration Act of 1979 (as amended)), war, riot, strike, lock-out, trade dispute or labour disturbance, accident, break-down of plant or machinery, fire, flood, storm, tempest, difficulty or increased expense in obtaining workmen, materials or transport or other circumstances affecting the supply of any Good or of raw materials therefor by Godiva's normal source of supply or the manufacture of any Good by Godiva's normal means or the delivery of any Good by Godiva's normal route or means of delivery.
- 13.2 If due to such circumstances or events Godiva has insufficient stocks to meet all its commitments Godiva may apportion available stocks among its customers at its sole discretion.

14. LIABILITY LIMITATIONS

- 14.1 Nothing in the Conditions shall exclude or limit the liability of any party for:
- 14.1.1 the tort of deceit;
 - 14.1.2 death or personal injury caused by its negligence;
 - 14.1.3 any breach of the obligations implied by section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982; or
 - 14.1.4 any liability which cannot be excluded or limited by law.
- 14.2 Save as provided in Clause 14.1 of these Conditions, in no event will Godiva have any liability for any of the following losses, claims, obligations, costs, expenses or damages (whether foreseeable, known or otherwise): (i) any indirect, special, incidental, punitive, or consequential damages; (ii) or any loss of actual or anticipated profits; (iii) loss of data; (iv) loss of use; (v) loss of sales; (vi) downtime; (vii) loss of production; (viii) loss of contracts; (ix) damage to reputation or goodwill; (x) relating to or arising out of the use or failure of any Good sold by Godiva other than as set forth the applicable Warranty Statement (See Clause 8 of these Conditions) in effect on the date the applicable order is submitted; or (xi) costs of procurement or substitute goods or services; in each case, however caused, whether based on an action or claim in contract, tort (including negligence), breach of statutory duty or under any other theory of liability arising out of or in connection with the Conditions and whether or not Godiva has been advised of the possibility of such damage.
- 14.3 Save as provided in Clause 14.1 of these Conditions, the total liability of Godiva in connection with any particular Good shall in no circumstances exceed a sum equal to 100% of the amount paid to Godiva by the Customer for such Good.

15. NUCLEAR EXCLUSION

ALL GOODS ARE "COMMERCIAL GRADE ITEMS" AND MAY NOT BE USED FOR ANY "SAFETY RELATED" PURPOSE, APPLICATION OR FUNCTION AT ANY NUCLEAR POWER PLANT OR OTHER NUCLEAR FACILITY.

16. RESALE OR TRANSFER

If the Customer resells or transfers any Good (whether sold or transferred in the form provided by Godiva or in a modified form or as a component or part of or in connection with other goods or services):

- 16.1 All warranties, liabilities and obligations in connection with the resale or transfer of such Good shall be the sole responsibility, liability and obligations of the Customer.
- 16.2 The Customer shall be solely responsible for determining whether such Good conforms to and complies with all specifications and technical, commercial, quality, legal and regulatory standards and requirements that may apply in connection with the resale or transfer of such Good.
- 16.3 The Customer shall be solely responsible for ensuring that such Good is fit and appropriate for the purposes, applications and functions for which it may be used after resale or transfer.

17. LEGAL CONSTRUCTION

- 17.1 Any matters of dispute arising between Godiva and the Customer shall be settled by reference to the laws of England, and the Customer and Godiva shall each be deemed to accept the non-exclusive jurisdiction of the English courts.
- 17.2 If any provision or part of a provision of the Conditions shall be, or be found by any court of competent jurisdiction to be, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions or parts of such provision of the Conditions, all of which shall remain in full force and effect.
- 17.3 Any notice to Godiva or the Customer shall be deemed to have been duly given if sent by prepaid first class registered post or email to the party concerned at its registered office or principal place of business or such other address as may have been notified pursuant to this provision to the party giving the notice. Notices sent by first class registered post shall be deemed to have being given seven days after despatch, and notices sent by email shall be deemed to have been given on the day of dispatch
- 17.4 No person other than Godiva or the Customer shall be entitled to enforce any rights and/or obligations contained in the Conditions save that where an written agreement is entered into by them pursuant to which any rights and/or obligations contained in the Conditions are permissibly assigned or novated to a third party.
- 17.5 The Conditions constitute the entire agreement between the parties regarding its subject matter and supersedes and replaces any and all prior agreements, understandings or arrangements between the parties, whether oral or in writing, with respect to the same. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between Godiva and the Customer prior to ordering any Goods except as expressly stated in the Conditions. Neither Godiva nor the Customer shall have any remedy in respect of any untrue statement made by the other party upon which it relied in ordering or supplying any Goods (unless such untrue statement was made fraudulently). Without prejudice to the foregoing, the only remedy available to a party in respect of a breach of any representation which is incorporated into the Conditions shall be for breach of contract.

18. IMPORTANT

IN ALL CASES WHERE THE CUSTOMER HAS PLACED AN ORDER WITH GODIVA FOR GOODS, THE CUSTOMER SHALL BE DEEMED TO HAVE READ AND UNDERSTOOD THE CONDITIONS AND NO SUBSEQUENT CONDUCT BY THE CUSTOMER OR GODIVA SHALL BE ADMISSIBLE AS EVIDENCE TO THE CONTRARY.