

# Duttons Divers Ltd - online store T&C's

## 1. Introduction

These are the terms and conditions ('Conditions') referred to in your order ('Order') for us to supply you with diving related products ('Goods') advertised on our website [www.duttonsdivers.com](http://www.duttonsdivers.com) ('Website').

These Conditions describe the terms on which we will sell the Goods to you. In particular, we must deliver the correct Goods to the right place at the agreed time in good condition, and they explain our legal responsibility to you if we fail to meet these standards.

They also explain that you must pay us the correct price, and when legal ownership of the Goods passes from us to you. These issues are important for insurance and risk purposes.

You will need to read and accept these Conditions when placing an Order on our Website. If you are not able to accept the Conditions you will not be able to place an Order.

This introduction is designed to give you an overview of these Conditions, but it is not part of the Conditions themselves.

## 2. Our Website

2.1 Our Website is owned and operated by Duttons Divers Limited and your Order will be placed with Duttons Divers Limited on our Website. Full contact details can be found at Clause 13.

2.2 No charge is made for accessing our Website but access is subject to our website terms, cookie policy and privacy policy which can be found [here](#).

## 3. The Contract

3.1 The Order is your offer to buy the specified Goods from us on these Conditions, and you must make sure that the Order (and any required standards or measurements or specification of the Goods that form part of your Order) is correct.

3.2 The Order is placed on our Website and you will be able to check the details of your Order before submitting it. If we are not able to process your Order because the details are not complete we will contact you to try and rectify this. If we are not able to contact you to do this within a reasonable amount of time we will notify you that the Order has not been accepted and let you know why. If we are able to contact you to complete the details of the Order any timescales for delivery will not start until the Order has been accepted.

3.3 Once we have confirmed we have the necessary information on your Order and are able to accept it we will send you a written acceptance by email. At this point, you have a binding contract with us ('Contract'), and these Conditions are part of it.

3.4 The Contract is our entire agreement. No previous statements or representations that we have made to you form part of the contract unless they are written into it. This includes samples, drawings, advertising, catalogues and other promotional or descriptive material.

3.5 Our email acceptance of your Order will include an Order reference number - please use this if you need to contact us about your Order.

3.6 If either of us needs to give the other a notice under the contract ('Notice'), the Notice must be given properly to be effective. Clause 14.4 explains how to give a proper Notice.

3.7 We will ensure that the following information is given or made available to you prior to the formation of the Contract between us and you, unless such information is already apparent from the context of the transaction:

3.7.1 The main characteristics of the Goods;

3.7.2 Our identity and contact details;

3.7.3 The total Price for the Goods including taxes or, if the nature of the Goods is such that the Price cannot be calculated in advance, the manner in which it will be calculated;

3.7.4 Where applicable, all additional delivery charges or, where such charges cannot be calculated in advance, the manner in which they will be calculated;

3.7.5 Where applicable, the arrangements for payment, delivery and the time by which we undertake to deliver the Goods;

3.7.6 We shall ensure that you are aware of our legal duty to supply goods that are in conformity with the Contract;

3.7.7 Where applicable, details of after-sales services and commercial guarantees;

3.7.8 Where applicable, the functionality, including appropriate technical protection measures, of digital content; and

3.7.9 Where applicable, any relevant compatibility of digital content with hardware and software that we are aware of or might reasonably be expected to be aware of.

## **4. The Goods**

4.1 The Goods are described on our Website. We try to ensure that the descriptions and images of the Goods on our Website are accurate but please note that all images are for illustrative purposes only and there may be slight differences due to how the image is displayed and the colour/brightness settings on your device.

4.2 If the Goods have been manufactured at your request or to any specification that you have supplied, you will pay for all expenses, losses and costs that we suffer from any claim made against us for breach of someone else's intellectual property rights. This applies even after this contract has ended and includes the value of any damages which a court orders us to pay.

4.3 We are allowed to change any of our specifications, or any specification that you have supplied, if this is necessary to comply with any applicable laws or regulations.

## **5. Delivery of the Goods**

5.1 We will give you a delivery note with each delivery of Goods. It will state the Order date, the Order reference number, the type and quantity of Goods, the storage instructions, and the outstanding balance of the Order if we are delivering Goods by instalments.

5.2 We will deliver the Goods to you (or you will collect the Goods if agreed) as set out in your Order within 5 working days of our notification of dispatch. However, Delivery dates are approximate, and time of delivery is not guaranteed. We will not be responsible for delays that our outside of our control but we will notify you of any delays. Delivery will be completed when the Goods are delivered to the delivery address on your Order or the Goods have been collected by you.

5.4 If you do not take delivery of the Goods within 10 days of our first attempted delivery or the date they are available for collection we may cancel our Contract with you and notify you of this by email. We will refund you any payment for the Goods (un less they have been made to your specification) but reserve the right to make a reasonable charge for delivery or storage costs.

5.5 If we fail to deliver the Goods, our legal responsibility to you will be limited to your costs of the Goods. We will not be legally responsible to you for non-delivery if you give us inadequate delivery or other supply instructions.

5.6 We are allowed to deliver the Goods in instalments. If we do this, each instalment will make up a separate contract with its own invoice and payment arrangements. If an instalment is delayed, you may not cancel other instalments because of the delay.

5.7 If we refuse to deliver the Goods, you may treat the Contract as being at an end and we will reimburse you without undue delay. Alternatively you may, instead of treating the Contract as being at an end, specify a new delivery time or time period. If we continue to fail to deliver the Goods, you may treat the Contract as being at an end and we will reimburse you without undue delay.

## 6. Warranties

6.1 We want you to be satisfied with the quality of the Goods purchased from our Website and so we offer you the following promise for 6 months from the delivery date:

6.1.1 the Goods are the same in all material respects as their description. We have made every reasonable effort to ensure that the Goods conform to illustrations, photographs and descriptions provided on our Website. We don't, however, guarantee that all descriptions, illustrations and/or photographs will be precisely accurate. If we find, or are made aware of, any typographical, clerical or other accidental errors or omissions on our Website we will make every reasonable effort to correct such errors or omissions as soon as is reasonably possible.

6.1.2 the Goods are free from significant defects;

6.1.3 the Goods are of satisfactory quality; and

6.1.4 the Goods are suitable for any purpose that we have specified.

6.2 If you discover that some or all of the Goods do not meet this promise, you can reject them within 30 days of their receipt by notice in writing to us. After 30 days of receipt but within 6 months of receipt you can require us to repair or replace them, or (if we fail to do that) require us to refund you the price of the defective Goods. This will only apply, however, if you have done the following:

6.2.1 given us a reasonable opportunity of examining the Goods, and

6.2.2 returned the Goods to us at our address and cost, if requested.

6.3 Our promise does not apply if:

6.3.1 you continue to use the Goods after you have given us Notice of a defect;

6.3.2 the defect has arisen because you have failed to follow any written or oral instructions on the use, storage, installation, or maintenance of the Goods;

6.3.3 the defect arises because we followed your instructions, specifications, drawing or design;

6.3.4 you alter or repair the Goods without previously getting our written agreement;

6.3.5 the defect is a result of fair wear and tear, negligence, (being your lack of reasonable care), abnormal storage or working conditions, or deliberate damage;

6.3.6 changes have been made to the goods to comply with regulations which apply to them.

6.4 Our promise only applies to Goods on the basis of this clause, but it also applies on the same basis to any repaired or replacement goods that we supply.

## **7. Price and Payment**

7.1 The confirmed price of the Goods is stated in our acceptance of your Order ('Price').

7.2 Any delivery or insurance costs are not included in the Price. Details of these charges (if they apply) can be found on our Website at [www.duttonsdivers.com](http://www.duttonsdivers.com). Any additional charges will be itemised separately in our acceptance of your Order.

7.3 Payment of the Price and any related costs (such as delivery) in relation to the Goods must be made before the Goods are dispatched. You will be prompted to complete payment details on our Website when placing an Order.

7.4 You are not allowed to hold back any payment due to us as a set-off or credit or counterclaim against some other amount that you think we owe you unless the law allows it. However, we may set off any amount you owe us against any amount we owe you.

7.5 We have made every reasonable effort to ensure that our Prices are correct. Prices will be checked when we process your Order. If the actual Price of the Goods is lower than that stated in your Order, you will be charged the lower Price (unless the lower price was an obvious mistake that you could have reasonably recognised). If the actual Price of the Goods is higher than that stated in your Order, we will ask you how you wish to proceed.

7.6 All Prices include VAT. If the rate of VAT changes between the date of your Order and the date of your payment, we will adjust the rate of VAT that you must pay. Changes in VAT will not affect any Prices where we have already received payment in full from you.

7.9 We use PayPal, Payl8r and FareHarbour to process payments on our Website and your use of their service is subject to their terms and conditions.

## **8. Cancellation**

8.1 You may cancel your Order at any time before we dispatch the Goods or within 14 days of receipt of the Goods. If you have already paid for the

Goods, the payment will be refunded to you within 14 days of your cancellation. Our contact details are at Clause 13 if you wish to cancel your Order.

8.2 You agree that this cancellation right does not apply if the Goods you have purchased are digital goods and you have authorised us to download those digital goods to you prior to the expiry of such 14 day period, if the Goods have been personalised or customised for your use (for example customised drysuits or buoyancy control devices) or if for health or hygiene reasons (for example with masks and regulators) the Goods have been sealed and you have unsealed them after receiving them.

8.3 We may cancel your Order at any time before we despatch the Goods in the following circumstances:

8.3.1 The Goods are no longer in stock and we are unable to re-stock (if, for example, the goods are discontinued); or

8.3.2 An event outside of our control set out in Clause 11.3 continues for more than 14 days.

8.4 If we cancel your Order under sub-Clause 8.3 and you have already paid for the Goods, the payment will be refunded to you within 14 days. If we cancel your Order, the cancellation will be confirmed by us by email.

## **9. Returns and refunds**

9.1 If you cancel the Contract for any reason after the Goods have been delivered to you, you must return the Goods to us. Please note that if you are exercising your right of cancellation during the 14 day 'cooling off' period set out at Clause 8.1 above you must return the Goods to us no more than 14 days after the day on which you notified us you wish to cancel the Order.

9.2 We will cover the cost of returning the Goods to us if they are faulty, misdescribed or you are cancelling the contract because we have done something wrong. In all other circumstances, including where you are exercising your right to change your mind under the cooling-off period at Clause 8.1 above, you must cover the cost of returning the Goods to us.

9.3 Any refund due to you will be made using the same method you used for payment of the Goods. Refunds will be made as possible after Goods are returned. If you are exercising your right of cancellation during the 14 day 'cooling off' period set out at Clause 8.1 above we will issue your refund within 14 days of you returning the Goods (and providing evidence of the same) or our receipt of the Goods.

## **10. Ownership and Risk**

10.1 The risk of damage to the goods or their loss passes to you on completion of delivery. (Completion of delivery is explained in clauses 5.3 and 5.4). You should make sure that you insure the Goods from this time onwards.

10.2 Ownership of the Goods passes when you have paid us for them in full. Until the ownership passes to you, we will still own the Goods.

## **11. Limitations on our Legal Responsibilities**

11.1 We will not be legally responsible to you for any loss of profit or any loss which you allege arises as a consequence from our Contract with you, and our total legal responsibility to you under the Contract will not exceed the Price of the Goods and any standard delivery charges.

11.2 These Conditions do not limit our legal responsibility for death, personal injury caused by our unreasonable carelessness (known as negligence) or that of our employees, agents or sub-contractors, fraud, defective products under the piece of legislation known as the Consumer Protection Act 1987, breach of the requirements that our goods be of satisfactory quality, fit for purpose, match a sample, or match a model seen; or any other matter that the law says we can't exclude (for example under the Consumer Rights Act, 2015).

11.3 Neither of us will be legally responsible to the other for failure or delay in carrying out the Contract which is caused by an event beyond our reasonable control, which we could not have foreseen or which was unavoidable. This includes industrial disputes, energy or transport failures, acts of God, war, terrorism, civil unrest (such as riots), explosions, mechanical breakdown, natural disasters, pandemic, epidemic, deliberate damage, or being let down by suppliers or sub-contractors.

11.4 We only supply goods for domestic and private use, we make no warranty or representation that the goods are fit for commercial, business or industrial use of any kind (including re-sale).

## **12. Data Protection**

12.1 We will deal with any personal data in accordance with our privacy policy and all applicable data protection and privacy legislation in force from time to time in the UK including (i) the UK GDPR; (ii) the DPA 2018 (and regulations made thereunder); and (iii) all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data. You can find details of our privacy policy [here](#).

## **13. How to contact us and complaints**

13.1 If you need to contact us in relation to an Order, a complaint or for any other reason you can reach us the following ways:

Email: [duttonsdivers@gmail.com](mailto:duttonsdivers@gmail.com)

Phone: 07375 113576

Post: Hafan Marina Dive Centre, Hafan Marina, Pwllheli, LL535YT

13.2 We always welcome feedback from our customers and, whilst we always use all reasonable endeavours to ensure that your experience as a customer of ours is a positive one, we nevertheless want to hear from you if you have any cause for complaint.

13.3 All complaints are handled by a manager in our team and will be dealt with promptly and fairly. Complaints may be initiated by contacting us as set out at 13.1 above.

## **14. General**

14.1 We are allowed to transfer our rights and responsibilities under our Contract to someone else, for example by assignment, a legal charge or sub-contracting our rights and obligations under our Contract, but you may not do any of these things unless we have previously agreed in writing that you can.

14.2 Nobody other than you and us may rely on any terms of this Contract.

14.3 Changes to the Contract are only binding if we agree them in writing, sign them and give you a copy.

14.4 If either of us wishes to give a Notice to the other under the Contract, we must give it in writing and either deliver it or send it by first class post or email to the contact details most recently provided by the other party. Delivery by post will be regarded as completed by 9:00 am on the second day after posting. This arrangement does not apply to the service of any documents in legal proceedings. Our registered office address is 23 Farnworth Street, Widnes, England, WA8 9LH.

14.5 Delay in exercising a right under the Contract will not take away that right or any other right.

14.6 The parties will use their best efforts to negotiate in good faith and settle any dispute that may arise out of or relate to these Conditions or any breach of them.

14.7 If any such dispute cannot be settled amicably through ordinary negotiations between the parties, or either or both is or are unwilling to engage in this process, either party may propose to the other in writing that structured negotiations be entered into with the assistance of a fully accredited mediator before resorting to litigation.

14.8 Any dispute shall not affect the parties' ongoing obligations under the Contract.

14.9 This Contract and any dispute or claim relating to or connected with it (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

14.10 The courts of England and Wales are the only place where any disputes arising from it may be decided unless your rights as a consumer allow you to choose a court in a different jurisdiction.