

STANDARD TERMS AND CONDITIONS OF SALE

**1 Definitions**

- 1.1 In these terms of business (a) "Seller" means Rollover Limited (b) "Buyer" means the person or company to whom the goods are to be invoiced (c) "Goods" means any items or goods supplied by the Seller to the Buyer, the supply of which is subject to these conditions of sale (d) "Initial Order" means the first order made by the Buyer to the Seller and the due date for full payment of any Initial Order will be prior to delivery of the Goods (e) "Subsequent Order" means any further order made by the Buyer after an Initial Order and the due date for full payment of any Subsequent Order will be within 30 days from the date of delivery to the Buyer (f) "Conditions" means the terms of business set out in this document
- 1.2 In these Conditions references to the masculine include the feminine and the neuter and vice versa and the singular includes the plural and vice versa and any reference to any statute or statutory provision includes any amendment, modification, extension, re-enactment or replacement of it and headings in the Conditions are inserted for convenience only and shall not affect the interpretation of the terms.
- 1.3 In these Conditions references to a person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or any agency of a state, whether or not a separate legal entity.

**2 Sale Basis**

- 2.1 These Conditions, and no other Conditions, apply to the contract and to each subsequent contract between the Buyer and Seller and shall govern the contract to the entire exclusion of any express or implied conditions.
- 2.2 The Seller shall be entitled to refuse to accept any order from the Buyer unless received during a period in which a quotation is stated to be open for acceptance.
- 2.3 The Seller reserves the right to establish a minimum order level.
- 2.4 The Buyer (a) acknowledges that the Goods are sufficient and suitable for its application and environment (b) acknowledges that any advice, representations or variation to these Conditions is only binding on the Seller if in writing (c) accepts responsibility for installing, testing, commissioning, servicing and maintaining the Goods (d) shall indemnify the Seller against all losses (including profit), costs, including labour and materials (used or purchased for the contract) damages, charges, tooling and all expenses, incurred by the Seller resulting from a contract cancellation by the Buyer which is accepted by the Seller.
- 2.5 The Seller will not be responsible where the delay in providing the Goods is caused by circumstances beyond its control.

**3 Prices and Payment**

- 3.1 The price of the Goods shall be the Seller's quoted net price.
- 3.2 The Seller reserves the right, by written notice to the Buyer, to reasonably increase the price of the Goods owing to factors beyond the control of the Seller such as, without limitation, currency fluctuation, duties, labour, material and other manufacturing costs, and to delay caused by the Buyer. Prices, unless otherwise stated, are subject to the addition of Value Added Tax, in accordance with current UK legislation, on the price of the Goods as at the date of despatch of the Goods.
- 3.3 Payment within the specified time shall be of the essence of the contract.
- 3.4 The Seller shall (a) be entitled to invoice the Initial Order of Goods to the Buyer prior to delivery (b) be entitled to invoice any Subsequent Order to the Buyer as at the date of delivery or when availability for collection is notified to the Buyer by the Seller.
- 3.5 The Buyer shall (a) make full and final payment for its Initial Order prior to the delivery of the Goods (b) make full and final payment for any Subsequent Order within 30 days from the date of delivery of the Goods to the Buyer (c) pay the Seller's packaging, insurance and delivery charge.
- 3.6 If the Buyer shall fail to make payment by the due date the Seller shall be entitled, in addition to other rights, to (a) cancel the contract (b) suspend further deliveries to the Buyer (c) appropriate any payment by the Buyer under this or other contracts, as the Seller may determine (d) charge interest (both before and after judgement) on the unpaid amount from the due payment date at the rate of 3 per cent per annum above HSBC Bank plc base rate from time to time, from the invoice date until payment in full is made.
- 3.7 All payments payable to the Seller under the contract shall become due immediately upon termination of the contract despite any other provision.
- 3.8 Any variation from this condition 3 is to be agreed in writing between the Seller and the Buyer prior to receipt of the Buyer's order.
- 3.9 Goods specially manufactured or ordered which may be cancelled subsequently will incur a charge equivalent to the full net price. All other ordered for Goods already shipped from the Seller's offices or depots and subsequently cancelled will be liable to a 20 per cent restocking charge. No Goods may be returned to the Seller without prior approval by the Seller.

**4 Delivery**

- 4.1 Delivery of the Goods and each instalment of the Goods shall be made either by collection of the Goods by the Buyer from the Seller's premises (after advice of availability to the Buyer) or by the Seller delivering the Goods to the premises specified by the Buyer.
- 4.2 The Seller's liability for failure to deliver the Goods for any reason other than the fault of the Buyer or any cause beyond its reasonable control (including strikes, lock-outs, failure or delay of suppliers to provide materials, components or equipment) 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, above the price of the Goods.
- 4.3 The Buyer acknowledges that each instalment of delivery constitutes a separate contract and failure by the Seller to deliver any instalment or any claim in respect of any one or more instalment shall not entitle it to treat the contract as a whole as repudiated.
- 4.4 If the Buyer fails to arrange for delivery or collection of the Goods, in the specified quantities, at the due date, the Seller is entitled, without prejudice to any other rights, to (a) claim reasonable storage and insurance costs (b) sell the Goods at the best price readily obtainable (c) claim any shortfall below the contract price, inclusive of selling, storage and insurance costs.

**5 Risk**

- 5.1 The risk of damage to or loss of the Goods shall pass to the Buyer (a) (for Goods to be collected) on notification to the Buyer that Goods are available for collection (b) (for Goods to be delivered) on delivery of the Goods to the premises as specified in the contract or to the Buyer's instruction, or if the Buyer, or his agent, for whatever reason wrongfully fails to take delivery, when the Seller tenders the Goods for delivery.

**6 Property and Title**

- 6.1 The property of the Goods, irrespective of any other provision of these Conditions, shall not pass to the Buyer until the Seller has received in cash, or cleared funds, all funds due in respect of (a) the Goods and delivery charges (b) all other amounts owing by the Buyer to the Seller.
- 6.2 Until such time as the property in the Goods passes to the Buyer, the Buyer shall (a) hold the Goods in trust for the Seller (b) keep the Goods properly stored, protected and insured, and on request shall produce the policy of insurance to the Seller (c) keep the Goods identified clearly as the Seller's property, with separate identification of each delivery instalment.
- 6.3 The Buyer is entitled to use or resell the Goods, held in trust for the Seller, in the ordinary course of business conduct provided that the Buyer shall (a) provide, on demand by the Seller, written evidence of the exact location of the Goods (b) hold such part of the proceeds of sale as represent the amount owed by the Buyer to the Seller on behalf of the Seller (c) account for proceeds of the Sale, including the proceeds of any insurance claim relating to the Goods, in accordance with condition 6.3(c) (d) record and keep these proceeds separate and clearly identifiable as the Seller's property (e) ensure that these proceeds shall be made available to the Seller or his agent on demand.
- 6.4 Acceptance of the Goods on trust is confirmed by the Buyer's collection or Seller's delivery of the Goods in addition to any written communication.
- 6.5 If the Buyer is in default under the contract (a) the Seller is entitled to require the Buyer to release the Goods on demand to the Seller or his agent (b) the Buyer grants an irrevocable licence to the Seller or his agent at any time to enter upon the premises at which the Goods are located, in order to inspect them or, where the Buyer's right to possession has terminated, to remove them from any storage, machinery or location into the Seller's possession.
- 6.6 The Buyer shall not be entitled to pledge or in any way charge as security for indebtedness any of the Goods. If the Buyer does so, all monies owing to the Seller by the Buyer shall, without prejudice to any other Seller's rights, become due for immediate payment in full, notwithstanding that ownership of any of the Goods has not passed from the Seller.
- 6.7 On termination of the contract, howsoever caused, the Seller's (but not the Buyer's) rights contained in this condition 6 will remain in effect.

**7 Quality and Defects**

- 7.1 All Goods are supplied as being in accordance with the manufacturer's specification and the Seller gives no further or other warranty as to the merchantable quality or the fitness for the purpose of the Goods and the Buyer agrees that in selecting the Goods no reliance has been placed upon the opinion (if any) expressed by the Seller as to the suitability of the Goods for the proposed use.
- 7.2 If any Goods prove not to comply with the manufacturer's specification as notified to the Buyer prior to the date of delivery then the Buyer will afford the Seller (at the Seller's option) a reasonable opportunity to inspect the Goods either on site or at the Seller's premises and if considered appropriate by the Seller to allow the Seller a reasonable opportunity to carry out any works necessary to bring the Goods up to the said specification.
- 7.3 It shall be the obligation of the Buyer to comply in all respects with the manufacturer's and/or suppliers written instructions for the installation and use of any Goods supplied and the Seller's liability for defects is reduced to the extent the Buyer's failure to do so comply is the cause of any defect in the Goods supplied and if appropriate to the value thereof.
- 7.4 The Seller must be notified immediately of any shortage in or damaged Goods delivered and such notifications shall be confirmed in writing within 14 days of delivery, no responsibilities whatsoever for such shortages or damaged Goods will be accepted by the Seller in the event of failure by the Buyer to notify the Seller of the same within the said period. Goods damaged in transit should not be accepted from the carrier and no credit will be given for or replacements made of Goods accepted from a carrier in damaged condition.

**8 Warranties and Liabilities**

- 8.1 The Seller warrants that the Goods, subject to conditions detailed below, will comply with their specification and be free of defects in material and workmanship at the time of delivery.
- 8.2 Goods supplied as used or sub-standard are expressly excluded.
- 8.3 The Seller will be under no liability under the above and any other warranty condition or guarantee for (a) any defect arising from the Buyer's application of the Goods (b) where the Goods constitute contracts for pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (and whether caused by negligence of the Seller, his employees, agents or otherwise) which arise out of or in conjunction with the supply of the Goods, their use or re-sale by the Buyer, except as expressly provided in these Conditions.
- 8.4 All warranties, conditions, or other terms implied by statute or common law are, subject as expressly provided within these Conditions, excluded to the fullest extent permitted by law.
- 8.5 If a valid claim in respect of any defect in quality, condition or failure to meet the specification or performance of the Goods is notified in writing to the Seller within 7 days from the date of delivery, the Seller shall at its discretion either replace the Goods or make good all defects, or a part in question, within a reasonable period free of charge provided always that the defective parts have been returned to the Seller, if so required. The Seller shall have no further liability to the Buyer.
- 8.6 Except in respect of death or personal injury directly attributable to and caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation or implied warranty, condition or other term or any duty at common law or under the express terms of the contract for pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (and whether caused by negligence of the Seller, his employees, agents or otherwise) which arise out of or in conjunction with the supply of the Goods, their use or re-sale by the Buyer, except as expressly provided in these Conditions.
- 8.7 Subject to the terms of conditions 4 and 8 above, the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this contract shall be limited to the total price payable by the Buyer for the Goods.

**9 Insolvency**

- 9.1 If the Buyer (a) makes voluntary arrangements with its creditors (b) becomes subject to an administration order (c) becomes bankrupt (being an individual or firm) (d) goes into liquidation (being a company) (e) has any of its properties or assets taken possession of by an encumbrance, or has a receiver appointed (f) ceases, or threatens to cease, to carry on business (g) is notified by the Seller of reasonable apprehension that any of the above events may occur, the Seller is then entitled, without prejudice to any other right or remedy, to (a) cancel the contract (b) suspend further contract deliveries without liability to the Buyer (c) receive immediate payment for all Goods delivered (d) re-possess the Goods, if immediate payment is not made (e) obtain possession of monies held by the Buyer for Goods resold without payment for them to the Seller.

**10 Intellectual Property**

- 10.1 The Seller will not be responsible for any infringement by the Buyer of any intellectual property rights (including patents, registered designs, unregistered designs, copyrights, technical information, or know how and similar rights in the United Kingdom and abroad) arising in the course of or as a consequence of this contract.
- 10.2 The Buyer agrees to indemnify the Seller from and against all liability arising from condition 10.1 above.

**11 Force Majeure**

- 11.1 Without prejudice to any other of the contract terms the Seller shall not be liable to the Buyer or be deemed to be in breach of the contract or these Conditions by reason of any delay performing or any failure of performance to 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 (a) riots, civil commotions, war, rebellion, national (b) international emergency, strikes, lockouts (c) other labour disputes (including those involving the workforce of the Company) (d) act of god, destruction or damage due to natural (e) causes, floods, fires, tempest, explosion, breakdown of machinery or accident (f) acts, restrictions, regulations, by-laws (g) prohibitions or measures of any kind on the part of the government authority (h) import or export regulations or embargoes (i) strikes and other industrial actions (j) shortage of or inability to obtain labour, raw (k) materials, fuel parts or machinery and equipment (l) power failure or break down in machinery.

**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.
- 12.2 No waiver by the Seller of any breach of the contract by the Buyer shall be considered as a waiver of any other breach of the same or other provision.
- 12.3 No variation or waiver of, or addition to, these conditions of sale shall be binding on the Seller except as agreed by the Seller in writing.
- 12.4 Each right and remedy of the Seller under this contract is without prejudice to any other right or remedy of the Seller whether under the contract or not.
- 12.5 The parties to this contract do not intend that any term of this contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 12.6 If any provision of these Conditions is held by any competent authority to be invalid or enforceable only in part, the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.
- 12.7 If at any time any questions, dispute or difference whatsoever shall arise between the Buyer and Seller, in relation to, or in connection with the contract, either may give to the other notice in writing of the existence of such question, dispute or difference, and the same, if the Seller so requires within 28 days of such notice, shall be referred to the arbitration of a person to be mutually agreed upon. Communications in writing under this contract shall be deemed to have been received (a) if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting) (b) if delivered by hand, on the day of delivery (c) if sent by facsimile transmission on a working day prior to 4.00 p.m., at the time of transmission and otherwise on the next working day.
- 12.8 The headings in these Conditions shall not affect their interpretation.
- 12.9 The contract shall be governed by the laws of England & Wales and it is agreed between the parties hereto that the contract shall be deemed to have been made in the district court of Slough.
- 12.10