

TRADEWOODS LTD ~ CONDITIONS OF SALE

1. DEFINITIONS

- 1.1 'The Company' means Tradewoods Ltd.
- 1.2 'The Conditions' means the standard terms of sale set out in this document and (unless the context requires otherwise) includes any special terms agreed in Writing between the Buyer and the Company.
- 1.3 'The Buyer' means any person, firm or company to whom Goods are supplied by the Company.
- 1.4 'The Goods' means any goods, materials and accessories supplied by the Company to the Buyer.
- 1.5 'The Contract' means any agreement for the sale and purchase of Goods by the Buyer.
- 1.6 "Writing" and any similar expression include facsimile transmission and comparable means of transmission, but not electronic mail.

2. EXISTENCE OF CONTRACT

- 2.1 Any Written quotation or estimate issued by the Company shall constitute an invitation to treat. No binding contract shall be created by the placing of an order by the Buyer, unless and until the Company has despatched the Goods to the Buyer. These Conditions shall apply to all Contracts to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order or similar document. All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions. Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.2 No particulars contained in any advertising matter, catalogues or other publications supplied by the Company (including references to weights, dimensions or performances therein), nor any verbal representation by any employee or agent of the Company shall form part of the Contract nor shall they be treated as constituting a representation on the part of the Company, but nothing in these Conditions affects the liability of either party for fraudulent misrepresentation.

3. AMENDMENTS AND CANCELLATION

- 3.1 No amendments to these Conditions shall be binding on the Company unless accepted in writing by a director of the Company.
- 3.2 The Contract may not be cancelled by the Buyer except with the written consent of the Company.

4. MINIMUM ORDER VALUES

Where the Buyer orders less than the minimum order value as notified from time to time by the Company the Company will apply the minimum order surcharge current from time to time.

5. PRICES

All prices are exclusive of VAT or any other sales tax and subject to variation by the Company without notice, and Goods will be invoiced at prices ruling at the date of despatch from the Company's premises.

6. SETTLEMENT TERMS

Unless otherwise agreed in Writing by a director of the Company the price of the Goods shall be paid nett in cash or cleared funds not later than thirty days from the end of the month of the date of the sales invoice.

7. TERMS OF DESPATCH AND DELIVERY

- 7.1 Goods will be supplied and delivery of the Goods shall take place at the Buyer's premises or delivery site as indicated in the Buyer's order.
- 7.2 Times or dates quoted by the Company for delivery of Goods are intended as estimates only and time is not of the essence of the Contract.
- 7.3 The Company shall not be liable in any way for any direct or indirect loss, damage or expenses (including but not limited to loss of profits and liability to third parties) suffered or incurred by the Buyer as a consequence of any delay in delivery.
- 7.4 The Company reserves the right to deliver the Goods by instalments in any sequence and to tender a separate invoice in respect of each instalment. Where the Goods are delivered by instalments, the Contract shall become severable and each instalment shall be deemed to be the subject of a separate contract. No default or failure by the Company in respect of any one or more instalments shall entitle the Buyer to treat the Contract as repudiated or to damages.

8. FORCE MAJEURE

The Company shall not be liable for failure to deliver the Goods for any reason whatsoever outside the reasonable control of the Company including, without limitation to the generality of the foregoing, industrial action, war, storm, fire, explosion, flood, governmental action or regulation, act of God, riots, strikes, lock-outs or non-availability of stocks or materials. Any such failure shall not affect the obligation of the Buyer to pay for Goods already delivered.

9. PROPERTY AND RISK

- 9.1 Risk of loss of or damage to the Goods shall pass to the Buyer on delivery.
- 9.2 Property and ownership in the Goods shall, notwithstanding delivery of the Goods to the Buyer, not pass from the Company until
- (a) the Buyer shall have paid the Company in full therefor pursuant to these Conditions and
- (b) no other sums are then outstanding from the Buyer to the Company on any account whatever whether or not such sums have become due for payment.

- 9.3 The Buyer shall, while property in the Goods remains with the Company pursuant to this Condition 9, hold the Goods on a fiduciary basis only and as bailee only for the Company. The Buyer shall store the Goods without charge to the Company separately from its own goods or those of any other person in good condition and marked in such a way that they are clearly identifiable as the property of the Company and shall insure the Goods to their full value against 'All Risks' but the Buyer may re-sell the Goods in the ordinary course of its business.
- 9.4 In the event that the Company is entitled to exercise any of its rights under Condition 12, the Buyer shall immediately place any of the Goods the property and ownership in which remains vested in the Company in its possession or under its control at the disposal of the Company and the Company shall (without prejudice to any of its other rights and remedies) have the right to re-possess, re-sell and use such Goods and may by itself, its servants or agents enter upon any land or building, vehicle or vessel or other place upon or in which such Goods are reasonably thought to be situated for the purpose of removing any such Goods.
- 9.5 Where merchandise racks are supplied by the Company to the Buyer on a free basis, risk in them passes to the Buyer on delivery but property in them remains with the Company.

10. CLAIMS FOR DEFECTS, DAMAGE, LOSS OR NON-DELIVERY

- 10.1 The Buyer shall inspect the Goods on delivery and shall within 5 days of the date of delivery notify the Company of any alleged defect, shortage in quantity, damage or failure to comply with description or sample. In relation to any defect that is not apparent on reasonable inspection, the Buyer shall notify the Company of the defect within a reasonable time after discovery of the defect. The Buyer shall give the Company an opportunity to inspect such Goods at the Buyer's premises or delivery site within a reasonable time following such notice and before any use is made of them.
- 10.2 The Buyer shall notify the Company of any non-delivery of a whole consignment within 5 days of the date of receipt of the Company's sales invoice.
- 10.3 If the Buyer shall fail to comply with the foregoing, the Goods shall be conclusively presumed to be in accordance with the Contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Buyer shall be deemed to have accepted the Goods. If the Buyer establishes to the Company's reasonable satisfaction that the Goods are not in accordance with the Contract or are defective, the Buyer's sole remedy in respect thereof shall be limited, as the Company may elect, to making good any shortage, to repairing or replacing such Goods free of charge or refunding all, or part of, the Contract price against return of the Goods. In the case of suspected defective product which has been used or installed, or part used or part installed, a Director of the Company or their representative must be given access to the site at the earliest possible convenience to carry out a full and proper warranty inspection of the product and site.
- 10.4 The Company's liability to the Buyer whether for any breach of the Contract or otherwise shall not in any event exceed the Contract price and the Company shall be under no liability for any special consequential or indirect loss or damage suffered (including but not limited to loss of profits) or liability to third parties incurred, by the Buyer.
- 10.5 The Company shall be under no liability in respect of any defect in the Goods:
- 10.5.1 if the price for the Good has not been paid in full;
- 10.5.2 in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow installation instructions, misuse or alteration or repair of the Goods without the approval of the Company in Writing.
- 10.6 Subject to the provisions of this Condition 10, all warranties and conditions whether implied by statute or otherwise are hereby excluded PROVIDED THAT nothing here in shall restrict or exclude liability for death or personal injury caused by the negligence of the Company or affect the statutory right of a Buyer dealing as consumer (as defined in Section 12 of the Unfair Contract Terms Act 1977).

11. COMPLIANCE WITH STATUTE

The Buyer shall be responsible for ensuring that its use of the Goods complies with all and any relevant statutes, statutory instruments and regulations having the force of law and any relevant British Standards and shall fully indemnify the Company and keep it indemnified against all costs, claims, demands, expenses and liabilities suffered or incurred by the Company as a result of any non-compliance by the Buyer.

12. DEFAULT BY THE BUYER

If the Buyer fails to make payment for the Goods in accordance with Condition 6 or otherwise commits a breach of the Contract, or if the Buyer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any reconstruction without insolvency) shall be passed or presented or if a receiver, administrator, administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or if notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder or if any distress or execution shall be levied upon any of the Buyer's goods or a secured lender to the Buyer takes any steps to obtain possession of the property on which it is secured or otherwise to enforce its security all sums outstanding in respect of Goods shall become payable immediately. The Company may in its absolute discretion and without prejudice to any other rights which it may have:-

- (a) suspend all future deliveries of Goods to the Buyer and/or terminate the Contract without liability on its part; and/or
- (b) exercise any of its right pursuant to Condition 9.
- and the price for any Goods delivered but not paid for shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13. INTELLECTUAL PROPERTY RIGHTS

13.1 No right or license is granted under the Contract to the Buyer under any patent, trade mark, copyright, registered design or other intellectual property right except the right to resell the Goods.

13.2 If the Goods are manufactured or supplied by the Company in accordance with designs, specifications or other requirements expressly by the Buyer, the Buyer warrants to the Company that the manufacture or supply of such Goods by the Company does not infringe the rights of any third party, howsoever arising, and agrees to indemnify the Company full against any liability which may arise in respect of such infringement.

14. SET-OFF AND COUNTERCLAIM

The Buyer shall not be entitled to withhold payment of any invoice by reason of any right of set off or counterclaim which the Buyer may have or allege to have or for any other reason whatsoever.

15. NOTICES

Any notice required to be served pursuant to these Conditions shall be in Writing and served by first class post or facsimile or by hand on the Company at Ringtail Road, Burscough Industrial Estate, Burscough, Lancashire, L40 8JY or such other address as the Company may from time to time notify to the Buyer and on the Buyer at the address notified to the Company or in default of notification to the address from which the Goods were ordered or if the Buyer is a company at the option of the Company at the Buyer's registered office. A properly addressed notice sent by prepaid first class post shall be deemed to have been served two days after the date of its despatch. Any notice given by facsimile shall be deemed to have been served twenty four hours after despatch. In proving service by facsimile, it shall be sufficient to show that the facsimile was despatched to the correct facsimile number.

16. SEVERANCE

Any provision or term of these Conditions which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision hereof.

17. WAIVER

No waiver or forbearance by the Company, whether express or implied, in enforcing any of its rights hereunder shall prejudice its right to do so in the future.

18. ASSIGNMENT

The Buyer may not assign, subcontract or in any way dispose of its right or obligations under the Contract without the prior written consent of the Company.

19. LAW AND JURISDICTION

These Conditions and the Contract shall be governed in all respects by the laws of England and any dispute hereunder shall be subject to the exclusive jurisdiction of the English Courts.

20. THIRD PARTY RIGHTS

A person who is not a party to these Conditions has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any of these Conditions.

21. RETURNS POLICY

Any goods ordered in error by the Buyer, with the exception of special manufacture or special order items, may be returned to the Company within 14 days of delivery subject to written agreement by a Director of the Company. These goods must be returned to the Company in saleable condition and will be subject to any transportation and packaging costs plus a 15% restocking charge.

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