

Terms and Conditions of Sale

1 Validity of Terms and Conditions

- (1) These Terms and Conditions are incorporated into all contracts for sales of any goods between J. Scadding & Son Ltd ("the Seller") and any party with whom the Seller is doing business ("the Buyer").
- (2) These Terms and Conditions are binding in their entirety in the absence of a signed written agreement between the Seller and the Buyer which excludes or varies the operation of all or part of these Terms and Conditions.
- (3) These Terms and Conditions will take precedence over any conflicting provisions in the Buyer's Terms and Conditions unless the Seller and the Buyer have produced a signed written agreement to different effect.

2 Conclusion of Contracts for Sales

- (1) All contracts for sales are concluded at the time when a written order is produced. All communications between the Seller and the Buyer which are not recorded in a written order are not concluded contracts and are not binding.
- (2) Weights and measures of goods will be binding on the Seller only if they are recorded in a written agreement between the Seller and the Buyer.

3 Credit and Trade References

- (1) The Buyer is required to complete the Ledger Account Request Form including company details, trade reference details and bank details for the Buyer. This must be completed before the Seller is able to open a credit account for the Buyer.
- (2) The Seller has the consent of the Buyer to seek up to three trade references prior to opening a credit account for the Buyer.
- (3) The Seller has the consent of the Buyer to make enquiries of credit reference agencies or other third parties who may record those enquiries. We may also disclose information regarding the conduct of your account with us to credit reference agencies or other third parties. The information obtained from or provided to credit reference agencies or other third parties may be used when assessing further applications for credit terms, for debt collection, for tracing and for fraud prevention.

4 Delivery of Goods

- (1) The Buyer is required to provide the Seller with details of any rules, regulations or restrictions which govern the place of delivery. This must be provided at the latest by the time at which the order is placed by the Buyer. The Buyer is required to meet any liability incurred by the Seller as a result of any failure to notify the Seller of such rules, regulations or restrictions.
- (2) All delivery dates are provided by the Seller as guidelines and will not be the basis of any obligation unless confirmed in writing. Once a delivery date had been confirmed in writing the Seller will reasonably endeavour to provide the goods on the agreed date.
- (3) Delivery dates may be modified by the Seller in circumstances when:
 - (i) The Buyer has failed to provide all information required for the order to be executed by the delivery date.
 - (ii) The Buyer alters information which had been previously provided and which is required for execution of the order.
 - (iii) The Seller is prevented from making delivery of the order due to "force majeure" as defined in paragraph 6.
 - (iv) The Buyer has not completed other outstanding contractual obligations existing between the Buyer and the Seller. This will especially apply to situations where the Buyer has payments due to the Seller which are in arrears.
- (4) If the Seller fails to comply with an agreed delivery date then the Buyer will have the right to withdraw from the contract after providing the Seller with an additional period of 4 weeks and written notice of their intention to withdraw from the contract if delivery is not provided within those 4 weeks.
- (5) The Buyer may not claim damages as a result of any delay in delivery if the Seller has complied with their obligations under these Terms and Conditions. If the Seller has been grossly negligent then the Buyer may claim damages however such damages will be limited to additional costs with a value of not more than the purchase price.
- (6) The Buyer is obligated to accept goods delivered. This does not affect the Buyer's statutory rights.

5 Passing of Risks and Costs

- (1) Until the agreed date of delivery the Seller will store the goods at their own risk and will meet the cost of such storage. This includes the risk of fire, theft or weather. The Seller will retain these risks and costs beyond the agreed date of delivery in situations where delivery has not occurred due to any fault or decision on the part of the Seller or in any situation where delivery has not occurred due to any event of force majeure as defined in paragraph 6.

- (2) On the agreed date of delivery the Seller is absolved of the risks and costs of storage for the goods from the point at which the goods leave the Seller's premises.
- (3) The Seller will not be liable for any loss or damage to the goods whilst they are in transit. The Buyer must make such claims on their own behalf against the carrier.
- (4) If the Buyer refuses to accept the goods when the Seller attempts delivery then the risks and costs of storage will be assumed by the Buyer from the moment of refusal. The Buyer will also be liable to the Seller for all expenses incurred. This includes but is not limited to expenses incurred transporting the goods or retaining the goods.

6 Force Majeure

- (1) The Seller is not liable for the consequences of circumstances beyond the control of the parties. Such circumstances would include but not be limited to:
 - (i) the outbreak of war; or
 - (ii) natural disasters; or
 - (iii) industrial strikes; or
 - (iv) shortages of supplies including fuel, power or raw materials.
- (2) Upon the occurrence of any such event of "force majeure" the Buyer will have the option to withdraw from the contract upon providing the Seller with written notice. No claim for damages against the Seller will be possible in circumstances of "force majeure".

7 Terms of Payment

- (1) The Buyer must provide payment in full to the Seller within according to normal monthly account settlement whereby the balance falls due after the first full month from the date of delivery.
- (2) The Seller is not obliged to accept payment by cheque and may insist on payment by any other method.
- (3) The Buyer may only offset counterclaims or withhold payments if the Seller has explicitly agreed to this.

8 Default

- (1) If the Buyer delays in making any payments after they have fallen due then the Buyer will be considered to be in default.
- (2) If the Buyer is in default then the Seller reserves the right to hold the Buyer liable for interest on the outstanding balance at a rate of 5% above the Bank of England base rate as set from time to time.
- (3) If the Buyer is in default then the Seller has the right to stop any further deliveries and the Buyer will be liable for any expenses incurred by the Seller in sending reminders or expenses incurred in collecting goods from the Buyer.
- (4) The Seller reserves the right to hold the Buyer liable for any other expense or loss caused by default, this will include any legal expenses incurred by the Seller.

9 Retention of Title

- (1) The Seller retains full title to the goods until such time as the purchase price is received in full.
- (2) In a situation where the goods have been formed into a new product or have been joined with other goods such that the original goods provided by the Seller can be recovered without causing damage or incurring disproportionate expense, the Seller will have title of the new product. The Seller shall own title to the new product in proportion to the value of the materials at the time the goods were joined or the new product made.
- (3) The Seller reserves the right to repossess without notice any goods to which the Seller has retained title if the Buyer should renege on any of their contractual obligations to the Seller, especially in the event of default on the payment obligation. Seeking this remedy does not affect the Seller's ability to seek any other redress against the Buyer.
- (4) If the Buyer has transferred the goods to a third party then the Seller will be able to assert their rights as owner of full title to the goods against the third party. This may be done without prejudice to any other action against the Buyer.
- (5) Retention of title by the Seller does not affect the passing of risks and costs of storage to the Buyer.

10 Warranties

- (1) The Seller provides warranties that the goods supplied will correspond with the goods specified on the order.
- (2) The Seller does not provide any warranty that the goods have been tested in any way or that they are sold as fit for any particular purpose. Any information given by the Seller with regards to the usability, suitability or other properties of the goods is not binding and does not release the Buyer from any obligation to carry out their own tests and examinations. This excludes any contradictory term, condition or warranty which may be express, implied or statutory.
- (3) All terms agreed by the Seller whether express or implied are, in so far as they relate to the quality of goods, to be treated as warranties only. The breach of these warranties gives rise to only a claim of damages for the Buyer and does not give rise to any right to reject the goods or to repudiate the contract in any circumstances.

- (4) Upon delivery the Buyer is obliged to inspect the goods and to inform the Seller in writing of any complaints within 7 calendar days of delivery. The Buyer should record any complaint apparent at the time of delivery on the delivery note and inform the Seller immediately. This especially applies to matters regarding the amount, quality and measurements of goods.
- (5) Any defective goods which have been delivered must be stored carefully and at the expense of the Buyer in the condition they were at the time the defect was noticed. Such goods must be made available for inspection by the Seller. If the complaint is justified and is not excluded by any of the above clauses then the Seller will provide alternative goods which are not defective. If the alternative goods are also defective then the Buyer will have the right to withdraw from the contract.
- (6) If any defect is de minimis then the Seller will not be liable.

11 Exclusion of Liability

- (1) The Seller will not be liable for any loss or damage incurred as a result of negligence by the Seller unless such negligence causes death or personal injury.
- (2) The Seller will be liable for loss or damage incurred as a result of gross negligence however such liability will be limited to an amount of not more than the purchase price of the particular goods.

12 Applicable Law

- (1) All contracts entered into by the Seller will be governed by the Law of England and Wales.
- (2) All disputes will be resolved in the domestic courts of England and Wales.