



Factoryfurniture

Terms and Conditions of Sale

TERMS AND CONDITIONS OF SALE

1. VALIDITY

Unless other terms and conditions are expressly accepted by the Seller by means of a specific written amendment hereto signed by a Director or Branch Manager of the Seller the Contract will be on the terms and conditions set out below and overleaf ('the Contract Terms') to the exclusion of any other terms and conditions (except those implied in favour of a seller which are not inconsistent with the Contract Terms) whether or not the same are endorsed upon, delivered with or referred to in any purchase order or other document delivered or sent by the Buyer to the Seller. Any reference overleaf to the Buyer's order, specification or like document will not be deemed to imply that any terms or conditions endorsed upon, delivered with or referred to in such order, specification or like document will have effect to the exclusion or amendment of the Contract Terms.

2. QUOTATIONS

Any quotation issued will remain open for acceptance for 30 days from the date of issue.

3. DELIVERY

3.1 The Seller will endeavour to deliver the goods or materials to be supplied under the Contract ('the Goods') within the time agreed and if no time is agreed within a reasonable time, but in no circumstances will the Seller be liable for loss or damage of any kind whatsoever caused directly or indirectly by any delay in the delivery of the Goods, nor will any such delay entitle the Buyer to cancel or rescind the Contract.

3.2 The Seller will be entitled to make delivery by instalments

3.3 Unless otherwise agreed delivery will be made to the Buyer's premises set out overleaf (provided the same are within the United Kingdom) in accordance with the Seller's standard procedure and the contract price is calculated on that basis. Delivery by any other method requested by the Buyer and agreed to by the Company will be paid for by the buyer.

3.4 No claim for damage or shortages will be considered unless the Seller is advised in writing within 7 days of delivery. Where the Goods are not delivered by the Seller any claim for damage or shortages shall also be notified to the carriers by the Buyer in the manner and within the appropriate time limit prescribed by the carriers' terms and conditions.

3.5 No claim for non-delivery will be considered unless the Seller is advised within 14 days of the date of the Seller's invoice.

3.6 In the event of failure by the Buyer to give the appropriate notice or notices as specified in clause 3.4 and 3.5 above, the Buyer's claim will be deemed to have waived and will be absolutely barred.

4. GUARANTEE & EXCLUSION CLAUSES

4.2 In respect of Goods manufactured by the Seller, the Seller will within a period of 12 months from the date of despatch repair or at its option replace any Goods which are proved to the satisfaction of the Seller to be defective in material or workmanship Provided Always that this obligation will not apply where:-

4.2.1 The Goods have been altered in any way whatsoever or have been subjected to misuse or unauthorised repair; or

4.2.2 The Goods have been improperly installed or connected (unless the Seller carried out such installation and connection); or

4.2.3 The Buyer has failed to observe or perform the requirements of any maintenance procedures relating to the Goods; or

4.2.4 The Buyer has failed to notify the Seller of any defect or suspected defect immediately the same comes to the knowledge of the Buyer; or

4.2.5 The Buyer is in breach of this or any other contract made with the Seller.

4.3 Save as provided in clauses 4.1 and 4.2 the Seller will be under no liability under the Contract for any personal injury, death, loss or damage of any kind whatsoever, whether consequential or otherwise including but not limited to loss of profits and the Seller hereby excludes all conditions, warranties and stipulations express or implied, statutory, customary or otherwise which but for such exclusion would or might subsist in favour of the buyer except that such exclusion will not apply to any implied condition that the Seller has or will have the right to sell the Goods when the property is to pass.

4.4 In no circumstances will the Seller or its servants, agents or sub-contractors be liable for any loss or damage of any kind whatsoever (except arising from the death or personal injury) whether consequential or otherwise caused directly by any negligence on the part of the Seller or on the part of any of its servants, agents or sub-contractors in connection with or arising out of the manufacture or supply of the Goods or in connection with any advice or statement given or made by or on behalf of the Seller.

5. TITLE & RISK

5.1 The risk in the Goods shall pass to the Buyer immediately on delivery thereof to the Buyer's premises or upon collection by the Buyer from the seller's premises except in the case of shipment, when the risk in the Goods passes to the Buyer immediately on arrival at Port.

5.2 The legal and beneficial ownership of the Goods shall remain with the Seller which reserves the right to dispose of the Goods until payment in full has been received by the Seller in accordance with these terms.

5.3 Until such payment is paid in full, the Seller may (without prejudice to any of its rights) recover or re-sell any of the Goods and may enter upon the Buyer's premises by its servants or agents for that purpose.

5.4 If payment is not due, it shall become automatically due immediately on the commencement of any act or proceeding in which the Buyer's solvency is involved.

5.5 If any Goods are incorporated in or used as components or material; for other goods before such payment, the property in the whole of the Goods shall remain with and vest automatically in the Seller and the Buyer or, where appropriate, the owner or owners of the other goods as tenants in common until payment has been made.

5.6 The relationship of the Seller and Buyer is fiduciary and whenever the Buyer holds Goods or property in which the Seller has title to the property under the Conditions above or holds the proceeds of such Goods or property, he shall hold them as a fiduciary for the Seller together, where applicable, with himself or where appropriate the other owner or owners. In the case where the property or proceeds is held for tenants in common the same shall be held in the appropriate shares and shall be fairly apportioned in such proportions as the unpaid balance owing for the Goods subject to these terms to the total value or proceeds in that behalf attributable to the proportion for the said unpaid balance and shall be treated in all respects as if the Goods, the subject of these terms, had been dealt with in isolation and as proceeds thereof.

6. PRICE

6.1 All prices quoted are based upon the cost of materials, labour, equipment and production ruling at the date of quotation.

6.2 In the event of any increase between the date of the quotation to which the Contract relates and the date of delivery of the Goods, the Seller will be entitled to charge such increase to the Buyer, upon notification in writing by the Seller to the Buyer.

6.3 In addition, a delivery charge will be payable by the Buyer to the Seller.

6.4 Unless expressly stated otherwise all prices are exclusive of V.A.T.

6.5 The Seller shall not be liable for any carriage or transportation costs of any goods returned for any purpose.

7. PAYMENT

7.1.1 Where no account has been agreed by the Seller the Goods will not be delivered until the Seller is paid the amount shown on the pro-forma invoice relating to the Goods.

7.1.2 Where an account has been agreed the Seller may in its absolute discretion set and alter the Buyer's credit limit and the Seller reserves the right not to deliver the Goods if the price thereof increases the amount owed by the Buyer to the Seller beyond the Buyer's credit limit.

7.1.3 Where an account has been agreed and the price of the Goods together with all other indebtedness of the Buyer to the Seller does not exceed the Buyer's credit limit the price will become payable when the Seller's invoice is sent to the Buyer and payment will be made by the Buyer by the last day of the month following the month of delivery.

7.2 No settlement terms are accepted by the seller in any circumstances.

7.3 Interest at an annual rate of 3% above Barclays Bank plc Base Rate from time to time will accrue on overdue accounts from the date of invoice until payment.

7.4 Where the Buyer makes default under the Contract or any other contract with the Seller in payment on the due date of any sum due to the seller, the Seller without liability may postpone any delivery or may cancel the Contract or any other contract between the Seller and the Buyer but without prejudice to any right or remedy which the Seller may have against the Buyer in respect of such default.

8. CANCELLATION

8.1 If the Buyer cancels, extends or delays or purports to cancel, delay the Contract or part thereof, or fails to take delivery of any Goods at the time agreed (if any) or if no time is agreed within a reasonable time, then the Buyer will be liable (without prejudice to any other rights of the Seller to claim damages) to indemnify the Seller against any resulting loss, damage or expense incurred by the Seller in connection with the supply or non-supply of the Goods including a percentage in respect of profit.

8.2 If the Seller is unable (whether temporarily or permanently) to procure any services, goods or components necessary to enable it to supply the Goods or if the supply of the Goods is prevented or hindered by reason of Act of God, War, Act of Parliament or orders, regulations or bye-laws made under any statutory authority, labour disputes including those involving the workforce of the Seller, civil commotion, fire, flood or any causes of whatsoever kind and whenever occurring being a cause beyond the Seller's control, the Seller may cancel the Contract by notice in writing to the Buyer so far as it relates to Goods not then supplied or work not then done and such cancellation shall not give rise to any claims by the Buyer provided always that the Buyer shall remain liable to pay for Goods delivered prior to the date of such cancellation.

9. STORAGE

If the Buyer fails to take delivery of the Goods when they are ready for delivery the Seller may, at its option, either store them itself or have them stored by a third parties on such terms as the Seller may in its absolute discretion think fit. In any event the cost of storage will be borne by the Buyer and insofar as the storage is done by the Seller then such cost will be the Seller's storage charges current at the time of storage. The cost together with any additional insurance or double handling charges will be added to and form part of the price for the Goods.

10. DESIGN ETC.

10.1 Where the Goods are manufactured in accordance with information or drawings supplied by the Buyer or to his design or specification or where standard goods of the Seller are altered in accordance with the Buyer's instructions:-

10.1.1 No guarantee or warranty is given by the Seller as to the practicability, efficiency safety or otherwise of the Goods (this being without prejudice to any other of the Contract Terms).

10.1.2 The Buyer will indemnify and keep the Seller indemnified against all liability incurred by the Seller as a result of such goods infringing any patent, registered design, copyright, or other like protection or the provision of any statute, statutory instrument or regulation for the time being in force.

10.2 No variation by the Seller in the specification or design of any Goods shall constitute a breach of contract or impose upon the Seller any liability whatsoever.

10.3 The Seller shall be under no liability whatsoever to the Buyer in respect of any loss damage or claim incurred by or made against the Buyer should any goods supplied by the Seller infringe on any patent, registered design, or copyright or other like protection or the provision of any statute, statutory instrument or regulation for the time being in force.

10.4 Unless otherwise agreed in writing all patterns, drawings, tools etc., produced by the Seller shall remain property of the Seller and must not be used or copied by the Buyer.

11. BROCHURES ETC.

No drawings, description matter, weights, dimensions or shipping specifications issued by the Seller or the manufacturer of the Goods, nor the descriptions and illustrations contained in the Seller's or manufacturers catalogues, price lists, and other advertising matter shall be deemed to form part of the Contract nor be regarded as a warranty or representation relating to the Goods.

12. RIGHT OF RE-SALE

If the Buyer defaults in accepting delivery of or paying for the Goods, the Seller reserves the right to re-sell the Goods or any of them to a third party without giving notice to the Buyer of the Seller's intention to re-sell.

13. TERMINATION

13.1 The contract will terminate immediately upon service of written notice of termination by the Seller on the Buyer on any one or more of the following grounds:-

13.1.1. That the Buyer has committed an act of bankruptcy or has made an arrangement or composition with his creditors or otherwise taken the benefit of any Act for the time being in force for the relief of insolvent debtors or has suffered or allowed any execution whether legal or equitable to be levied on his property or obtained against him or (being a body corporate) has had convened a meeting of creditors (whether formal or informal) or has entered into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation or has a receiver manager or administrator appointed of its undertaking or any part thereof or a resolution has been passed or a petition presented to any Court for the winding up of the Buyer or any proceedings have been commenced relating to the insolvency or possible insolvency of the Buyer.

13.1.2. That the Buyer has failed to observe or perform any of its obligations or duties under the contract.

13.2 The termination of the Contract in any way whatsoever will be without prejudice to the rights, obligations and liabilities of either party accrued prior to termination.

14. EXPORT

Where the Goods are to be exported to the Buyer:

14.1 The Uniform Laws on International Sales Act 1967 shall not apply to the Contract.

14.2 Payment will be in Pounds Sterling in England. The Buyer will establish and maintain in favour of the Seller an irrevocable and confirmed letter of credit with a U.K. clearing bank payable on drafts drawn at sight upon presentation to the bank by the Seller of a certified copy of the Seller's invoice. Such letter of credit shall be established at least 30 days prior to the anticipated shipment date and shall cover the full price of the Goods (including applicable taxes) and such letter of credit shall be divisible. All bank charges and other expenses in relation to the letter of credit shall be for the Buyer's account.

14.3 The Goods will be sold F.O.B. or C.I.F. at the option of the Seller and the Seller will be under no obligation to give the Buyer notice as specified in Section 32(3) of the Sales of Goods Act 1979.

15. GENERAL

15.1 The Seller will be entitled to assign sub-contract or sub-let the Contract or any part thereof.

15.2 Failure by the Seller to enforce any of the Contract Terms will not be construed as a waiver of any of its rights hereunder.

15.3 The legal construction of these clauses shall not be affected by their headings which are for convenience of references only.

ENGLISH LAW

The formation, interpretation and operation of the Contract will be subject to English Law and the Buyer submits himself to the non-exclusive jurisdiction of the English Courts.

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