

CONDITIONS OF SALE - FAIRLINE DISTRIBUTION LTD.

GENERAL

These conditions of sale are incorporated in all govern all sales of goods by Fairline Distribution Limited and shall prevail over any other terms or conditions or referred to in the Buyer's order or in correspondence or elsewhere or implied by trade custom, practice or course unless such other terms or conditions are specifically agreed to in writing by the seller. The seller's servants or agents shall not have authority to enlarge, vary or exclude any of these conditions and any such purported enlargement, variation or exclusion shall be without effect unless specifically agreed to in writing between the Seller and the Buyer. No terms or conditions of any other contract between the Buyer and any third party to whom the Buyer is a contractor shall affect these conditions whether or not the Seller has notice thereof. The headings appearing above each condition are included for reference purposes only and shall not affect or limit the interpretation and effect of these conditions.

DEFINITIONS

- (i) 'Buyer' – the Person, Firm or Company is named in the Purchase Order.
- (ii) 'Seller' – the person, Firm or Company to whom the Purchase Order is issued.
- (iii) 'Goods' – all items to be supplied and/or all work to be done by the Seller as specified in the Purchase Order.

QUOTATIONS

A quotation by the Seller shall constitute an invitation to treat and not an offer. The Seller may withdraw or amend any quotation at any time prior to the Seller's acceptance of the Buyer's order.

Quotations do not constitute advice or recommendation by the seller that goods are suitable for any particular application. All goods sold are not recommended, but supplied according to customer order.

PRICE

- (a) Notwithstanding anything herein to the contrary the price quoted or referred to in the Offer may be varied by the Seller after the contract as a result of any increase between the date of the Offer and delivery where such increase is due to a change in market conditions beyond the reasonable control of the Seller. The term "market conditions" shall include (but not be limited to) increases in the cost or changes in any relevant exchange transport or handling charges the imposition of or amendment in any statute order regulations or by law in respect of any duty tax imposed or the imposition or change in any export or import regulations or requirements.
- (b) The Seller also reserves the right to vary any price quoted or referred to in the Offer if it is found later to be based on incorrect or inaccurate information supplied to the Seller by its supplier.
- (c) Unless otherwise stated in writing by the Seller each order when accepted shall constitute a separate contract between the Seller and the Buyer.
- (d) All prices quoted by the Seller are exclusive of Value Added Tax which will be charged at the rate ruling on the date of despatch and is deemed to be part of the purchase price of the goods to which it relates and is therefore the liability of the Buyer.
- (e) Invoices not queried in writing to the Seller at its offices at Unit 4 Mill Hall Business Estate, Aylesford, Kent ME20 7JZ within 20 days of receipt will be deemed to have been accepted by the Buyer.

TERMS OF PAYMENT

- (a) Credit accounts may be opened subject to satisfactory references being obtained in the Seller's sole discretion. Payment for goods supplied on a credit account shall become due and payable not later than 30 days from date of the invoice unless otherwise specifically agreed in writing. In the event of there being any default by the Buyer in making payment as aforesaid the entire balance of the said account shall be payable forthwith and the Seller shall be entitled to charge interest thereon in accordance with sub clause (d) hereof.
- (b) For all other transactions terms will be cash with order. If cash is not paid with order the Seller shall have the right to require cash on delivery.
- (c) The Buyer shall not be entitled to withhold or set off payment of any amount due to the Seller under the terms hereof whether in respect of any claim by the Buyer in respect of any claim by the Buyer in respect of goods supplied by the Seller or for any other reason which is contested or for which liability is not admitted by the Seller.
- (d) Without prejudice to the Seller's right to enforce payment as hereinbefore provided the Seller shall be entitled to charge interest on any balance outstanding from the date the same become due for payment at the rate for the time being payable on High Court Judgement debt pursuant to Section 17 of the Judgements Act 1838.
- (e) Interest shall become due and payable pursuant to the foregoing clauses notwithstanding the fact that a portion of the account be subject to query or dispute.
- (f) In the case of a sale involving more than one delivery if default is made in payment on the due date the Seller shall have the right forthwith to suspend any further deliveries until payment; or by notice in writing to the Buyer terminate the contract in its entirety, whether or not the same is severable.
- (g) If at anytime the Buyer (being an existing credit account customer) being a company shall alter its constitution or being a sole trader or Partnership shall become incorporated or amalgamated with others or change its constitution i.e. its membership it shall be the duty of the Buyer to give prior written notice to the Seller of the intended change (should the Buyer wish to continue credit account facilities following the change). Continuance of trading with the amalgamated entity or commencement of trading with a new entity shall be in

the sole discretion of and only undertaken by the Seller if a written acknowledgement and acceptance is issued by the Seller's Credit Controller or Sales Director or Company Secretary.

WARRANTIES

- (a) The Seller agrees to repair, free of charge, any goods which are in the opinion of the Seller are defective due to a manufacturing fault but only if the same is reported to the Seller in writing within either 28 days of delivery of the goods to the Buyer or the Buyer's order or 7 working days in the event of equipment being installed and handed over as working by the Seller. The Seller will not be responsible either for the cost of removing defective goods from anyplace where they are installed or affixed or for making good the said place after the removal or for the cost of installing or affixing in such place any repaired or replacement goods unless the same shall have been previously agreed in writing with a Director of the Seller.
- (b) Save as aforesaid all liability for any representations whether oral or in writing and all guarantees, conditions or warranties whether expressed or implied by Statute, Common law or otherwise is hereby excluded and the Seller shall not be liable for any loss (including consequential loss) damage or delay or expense of any kind whatsoever and howsoever caused (including by the negligence of the Seller, its servants or agents) neither will the Seller be liable in respect of any advice or assistance given as to the suitability or fitness of any goods for any particular purpose and such shall be treated as without obligation or responsibility on the part of the Seller and the Buyer will be entirely responsible for ascertaining suitability and fitness of the goods for the Buyer's intended purpose.
- (c) All warranties will become void in the event of the Buyer having attempted any repair or modification to the goods without the Seller's agreement in writing.
- (d) The Seller shall not accept liability for any costs incurred by the Buyer for the installation, maintenance, repair or modification of the goods, or any other works relating to the goods without the Seller's agreement in writing.
- (e) Claims for defective or incorrect goods are limited to the value of the goods, plus the price charged for delivery.

DELIVERY

- (a) The Seller will endeavour to comply with the delivery date or dates requested by the Buyer but the Seller is not under any obligation to do so and any suggested delivery dates are approximate only and not of any control effect and the Seller shall not be under any liability to the Buyer in respect of any failure to deliver on any particular date or dates nor shall time be the essence of any contract and the Buyer shall not be entitled to treat any such late delivery as a breach of contract or to claim damages or to rescind the contract in whole or part by reason thereof.
- (b) If the Buyer refuses or fails to take delivery of goods tendered in accordance with the contract the goods shall be returned to the Seller without delay. In such event the Seller shall be entitled to make a restocking charge which shall be specified by the Seller and shall be payable immediately.

CANCELLATION OF ORDERS

The Seller may in its sole discretion accept or reject the cancellation of any order once the order has been accepted by the Seller and reserves the right to impose a cancellation charge to be specified by the Seller, which shall be payable immediately.

FORCE MAJEURE

The Seller shall be under no liability for any loss (including consequential loss) damage or delay or expenses of any kind whatsoever cause wholly or in part by act of God, outbreak of War, civil commotion, governmental policies or restrictions of export or import or other licenses, trade or industrial disputes of whatever nature, whether or not such dispute involves the Seller, its servants or agents or any other contingency whatsoever which is beyond the control of the Seller.

BUYER'S BANKRUPTCY OR INSOLVENCY

If the Buyer makes a proposal for or enters into a scheme or arrangement or a composition with his or its creditors or fails to comply with a Statutory Demand for the repayment of a debt within the time allowed, or if (where the Buyer is an individual or where the Buyer is a Partnership, in the case of an individual partner) an application is made to the Court under part 8 of the Insolvency Act 1986 for an interim Order for the purpose of a voluntary arrangement or an Order is made for the administration of his Estate pursuant to part 6 of the County Courts Act 1984 or a Bankruptcy Petition relating to him is presented to the Court, or he is adjudged bankrupt or if (where the Buyer is a company) a Petition for an administration Order is presented to the Court pursuant to part 2 of the Insolvency Act 1986 or the Buyer passes a resolution or the Court makes an Order that it shall be wound up otherwise than for the purpose of an amalgamation or reconstruction or a Receiver or Administrative Receiver is appointed of any of the assets or undertaking of the Buyer or circumstances arise which entitled the Court or a creditor to appoint the Receiver or any Administrative Receiver or (where the Buyer is either a company or Partnership) which entitle the Court to make a Winding Up Order (whether the Buyer is a company or a Partnership or an individual) the Buyer takes or suffers any similar action in consequence of debt, the Seller may stop any goods in transit and suspend further deliveries and may forthwith determine the contract without prejudice to the continuation of all the Seller's rights hereunder and to any existing claims. In such event it shall be lawful for the Seller to enter the premises where the goods are situated and take possession of the goods and any materials the title to which has not passed to the Seller in accordance with the conditions hereunder.

TITLE TO GOODS

Until the Seller has been paid in full the price of the goods and the cost of any packaging together with any interest and charges thereon:

- (a) The ownership of the goods shall remain in the Seller and the Buyer shall hold the goods as bailee and fiduciary owner for the Seller.
- (b) The Buyer has the right to sell and deliver goods to third parties in the ordinary course of his business acting towards such third parties as principal and not as the Seller's agent, but it shall hold all proceeds of sale on trust for the Seller in a separate bank account, the Buyer hereby assigning to the seller all rights and claims which the Buyer may have against its customers arising from such sales until full payment is made as aforesaid.
- (c) The buyer shall if required by the Seller store the goods in such a way as to clearly show the Seller's ownership thereof.
- (d) The Buyer shall notify the Seller immediately upon demand by the Seller of the place or places where the goods are situated.
- (e) The Buyer shall afford to the Seller access to the goods during all normal business hours whether they are upon land occupied or owned by the Seller or its customers and the Buyer shall deliver the goods up to the Seller at its request and allow the Seller to remove the same. For this purpose the Buyer hereby grants an irrevocable right and license to the Seller's servants or agents to enter upon the said land with or without vehicles during normal business hours.

RISK

The risk in the goods shall pass to the Buyer upon delivery.

RETURNS

Goods returned must be in their original condition and original undamaged packaging (including no other labels other than Fairline's stock labels). All returns authorisations are given on the assumption that this is the case, unless otherwise agreed in writing before the RMA is issued. Goods returned not in original condition may be refused or may subject to a restocking charge up to 100% of the value of the goods if they are deemed to be unsalable.

- (a) No goods shall be returned to the Seller without the written agreement of the Seller and a valid Return Merchandise Authorisation number issued by the Seller. This RMA is valid for 14 days (10 working days) from date of issue and all goods must be returned to the Seller within this time period. Failure to return the goods within this time period will void the Return Merchandise Authorisation number.
- (b) Requests for returns of unwanted, incorrectly ordered, defective or non-conforming goods must be made within 14 days of delivery to the delivery address stated on the order.
- (c) Goods supplied in accordance with the information given on the buyer's purchase order shall be deemed to have been supplied correctly.
- (d) The Seller shall not be liable for any deficiency or non-conformance to specifications which were not known to the seller before acceptance of the purchase order.
- (e) Goods accepted for replacement may only be re-supplied to the address originally specified on the buyers order or to an alternative UK Mainland address.
- (f) The Seller agrees to bear the cost of shipping replacements for defective goods or those agreed to have been incorrectly supplied by the Seller, but shall not be responsible for the arrangement or cost of returning rejected goods to the Seller, unless agreed in writing. The Seller shall not be responsible for any costs of shipping goods either to or from the Seller where those goods have been incorrectly ordered or are no longer required by the Buyer.
- (g) The Seller accepts no liability for any returns whilst in transit to the Seller.
- (h) The Seller reserves the right to make a charge, to be specified by the Seller, for handling and restocking goods returned for replacement or credit which were supplied correctly according to the Buyer's purchase order, or where the Seller believes a charge to be justified.
- (i) The Seller reserves the right to reject returned goods and reinstate all existing invoices if the information given to the Buyer is found to be incorrect or incomplete.
- (j) Compensation for the supply of defective or incorrect goods shall be limited to the cost of the goods and the charge made for their delivery.
- (k) Except where defective, any products supplied at the Buyer's specific request that are not normally stocked or supplied by the Seller and/or any items manufactured to the Buyer's specification are non-returnable and non-refundable.

THIRD PARTY SOURCES

In conformance with the Third Party Source's National Stockists Scheme requirements, products will be obtained from a third party assured source and/or assessed in accordance with the company's approved supplier requirements.

NON-WAIVER OF RIGHTS

The failure by either party to the contract to exercise or enforce any rights conferred by the contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereof.

