

1. DEFINITIONS:

- 1.1 Company means Lee and Plumpton Limited whose registered office is at Attleborough Norfolk NR17 1QD
- 1.2 Conditions means the terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Company and the Customer
- 1.3 Contract means the contract between the Company and the Customer for the sale and purchase of the Goods
- 1.4 Customer means the person firm or company purchasing or agreeing to purchase Goods from the Company in accordance with the Conditions
- 1.5 Goods means all good materials or any part thereof being the subject of any contract to which the Conditions apply together with any services supplied to the Customer by the Company or by any third party on behalf of the Company
- 1.6 Order means the Customers' written or oral order for Goods
- 1.7 Guarantee means the guarantee offered by the Company in respect of such of the Goods and for such period as may be notified to the Customer from time to time subject in any event to these Conditions (and in particular subject to those provisions contained in clause 7 below)
- 1.8 Price means the price quoted by the Company as set out in a written confirmation of Order from the Company to the Customer or when no price has been quoted a reasonable price excluding VAT other taxes and of packing and delivery
- 1.9 VAT means value added tax at the rate from time to time in force

2. CONDITIONS APPLICABLE:

- 2.1 The Company shall sell and the Customer shall purchase the Goods in accordance with the terms agreed orally or in writing with the Customer subject in either case to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions and in placing an Order the Customer shall be deemed to have read and accepted the Conditions
- 2.2 No variation to these Conditions shall be binding unless agreed in writing by the authorised representative of the Company
- 2.3 Any representations made by the Company's employees or agents concerning the Goods shall not be incorporated into the Contract unless confirmed by the Company in writing and in entering into the Contract the Customer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed
- 2.4 Any advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents as to the storage application or use of the Goods which is not confirmed in writing by the Company is followed or acted upon entirely at the Customer's own risk and accordingly the Company shall not be liable for any such advice or any recommendation which is not so confirmed
- 2.5 Any quotation given by the Company may be withdrawn at any time prior to acceptance by the Customer and in any event shall lapse after fourteen (14) days
- 2.6 Any typographical clerical or other error or omission in any sales literature quotation price list acceptance of offer invoice or other documentation or information issued by the Company shall be subject to correction without any liability on the part of the Company.

3. ORDERS AND SPECIFICATIONS:

- 3.1 No Order shall be deemed to be accepted by the Company unless accepted in writing by the Company's authorised representative.
- 3.2 The Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or (where the Goods are to be supplied or installed to the Customer's specification) which do not materially affect their quality or performance
- 3.3 Save as otherwise provided no Order which has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of the Company and on terms that the Customer shall at the Company's discretion either
 - (a) indemnify the Company in full against all loss (including loss of profit) costs including the costs of all labour and materials used damages charges and expenses incurred by the Company as a result of cancellation
 - (b) pay a handling charge on the goods equal to ten per cent (10%) of the Price
- 3.4 Where the Customer requires Goods to comply with a specification such specification shall be supplied to the Company at the time of the Order. Subject to clause 3.2 the Company will then endeavour to secure Goods to the required specification
- 3.5 The Customer shall inspect the Goods on delivery and shall within 24 hours of delivery notify the Company of any alleged defect shortage in quantity damage or failure to comply with description or sample. The Customer shall afford the Company an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them. If a Customer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the Contract free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Customer shall be deemed to have accepted the Goods.

4. DELIVERY/PERFORMANCE:

- 4.1 Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any reasonable delay in delivery and time for delivery shall not be of the essence unless previously agreed by the Company in writing.
- 4.2 The Company may deliver the Goods by separate instalments of any size and in any order
- 4.3 If the Company delivers more or less than the agreed quantity of Goods the Company shall have no liability to the Customer in respect of the excess or shortfall unless the Customer notes such excess or shortage of the delivery note. In the case of excess delivery the Company will make arrangements within a reasonable period for the excess to be returned to the Company at the Company's expense. Until such time as such excess is collected by or on behalf of the Company the Customer shall be responsible for the storage of such excess (and to keep such Goods in good condition) at the Customer's expense.
- 4.4 In the case of short delivery the Company may at its own discretion either make good the shortfall by one or more further deliveries or reduce the Price by the same proportion as the shortage bears to the Contract quantity
- 4.5 The Customer shall not be entitled to reject any delivery on the grounds of any excess or short delivery but shall pay the Price or where the Company exercise the option referred to in clause 4.4 above the reduced Price in accordance with that provision.
- 4.6 If the Customer fails to take delivery of the Goods or fails to give the adequate delivery instructions at the time stated for delivery (otherwise than by reason of the cause beyond the Customer's reasonable control or by reason of the Company's fault) then without prejudice to any other right or remedy available to it the Company may:-
 - (a) store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage or
 - (b) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the Price or charge the Customer for any shortfall below the Price.

5. PRICE:

- 5.1 If at any time before delivery of the Goods the Company deems it necessary to increase the Price to give effect to any increase in the cost to the Company which is due to any factor beyond the control of the Company (other than for any increase consequent to a change to the prevailing rate of VAT) the Company shall have the right to give written notice of such increase to the Customer increasing the Price and in such instance the Customer shall have the right to cancel the Contract within seven (7) days of the receipt by it of such notice failing which such increase shall be added to the Price
- 5.2 Notwithstanding the provisions of clause 5.1 above any increase in the cost to the Company necessitating an increase in the Price which is a result of any change in specification of the Goods which is requested by the Customer or as a result of any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions shall not entitle the Customer to cancel the Contract on receipt of a written notice of such increase in the Price
- 5.3 Subject to any special terms agreed in writing between the Company and the Customer the Company shall be entitled to invoice the Customer for the Price and VAT before on or at any time after delivery of the Goods
- 5.4 The Customer shall pay the Price and VAT upon either receipt of the Company's invoice or (if specifically notified by the Company) by the 20th day of the month following the month in which the Goods are delivered to the Customer ("the Due Date"). Time of payment of the Price and VAT shall be of the essence of the Contract
- 5.5 If the Customer fails to make payment on the Due Date then without prejudice to any other right or remedy available to it the Company shall be entitled to:-

- (a) cancel the Contract and/or suspend any further delivery of Goods to the Customer
- (b) charge the Customer interest (before and after any judgment) on the amount unpaid at the rate of four per cent (4%) per annum above Lloyds Bank Plc base rate from time to time until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest)

6. RISK AND PROPERTY:

- 6.1 Risk of damage to or loss of the Goods shall pass to the Customer at the time of delivery or if the Customer fails to take delivery of the Goods at the time when the Company has tendered delivery of the Goods
- 6.2 Notwithstanding delivery and the passing of risk in the Goods property in the Goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the Price and VAT and for all other Goods agreed to be sold to the Customer for which payment is then due and until such time as the property in the Goods passes to it the Customer shall hold the Goods as the Company's fiduciary agent and a bailee and shall keep the same separate from those of the Customer and third parties and properly stored and protected and insured and identified as the Company's property
- 6.3 The Customer may sell or use the Goods in the ordinary course of its business (whether in their original form or otherwise) but until the Customer has discharged all its payment obligations to the Company as aforesaid all prices of such sale or use shall be the property of the Company and held on trust by the Customer and the Customer shall account to the Company accordingly
- 6.4 Until such time as the property in the Goods passes to the Customer the Company shall be entitled at any time to require the Customer to deliver up the Goods to the Company and if the Customer fails to do so forthwith to enter upon any premises of the Customer or any third party where Goods are stored and repossess the Goods

7. WARRANTIES AND LIABILITIES:

- 7.1 The Company warrants that the Goods will be free from defects and workmanship for a period of six months from the supply of the Goods unless a Guarantee is given by the Company in which case such Goods shall be guaranteed against all defects in materials or manufacture for such period as may be notified to the Customer by the Company from time to time and commencing from whichever of the following events occurs first:
 - (a) the first use of the Goods by the Customer;
 - (b) the date of supply by the Customer to a purchaser of the Goods; or
 - (c) six months from the date of delivery of the Goods to the Customer
- 7.2 Any warranty or Guarantee given by the Company in respect of the Goods supplied shall be subject to the following conditions:-
 - (a) the Company shall be under no liability in respect of any defect in the Goods arising from any drawing design or specification supplied by the Customer
 - (b) the Company shall be under no liability in respect of any defects arising from fair wear and tear the Customer's (or any purchaser's) negligence abnormal working conditions failure to follow the Company's instructions (whether oral or in writing) misuse or alteration or repair of the Goods without the Company's approval or if the Goods have been dismantled or repaired or repairs have been attempted other than by the Company or a party authorised to carry out such repairs by the Company, or if the Company is not notified within 7 days of any defect becoming apparent.
 - (c) the Company shall be under no liability under any warranty condition or Guarantee if the Price and VAT has not been paid by the Due Date
 - (d) no warranty or Guarantee given by the Company extends to Goods not manufactured by the Company in respect of which the Customer shall only be entitled to the benefit of any such warranty or Guarantee as is given by the manufacturer to the Company
- 7.3 In the event of any claim arising under any warranty or Guarantee the Company will at its option repair supply parts for or replace the Goods (in whole or in part) or refund the cost of Goods which are accepted as being defective by the Company subject to the Customer having complied with its obligations hereunder and provided that the Customer (or any purchaser) returns the Goods to the Company at the Customer's (or purchaser's) expense. In the event of any conflict between the terms of any Guarantee given by the Company and the Conditions then the Conditions shall prevail.
- 7.4 The Customer acknowledges that the Goods have not been manufactured or prepared to meet the Customer's individual requirements and that it is not within the Company's control how and for what purpose the Goods are used by the Customer and that it is the Customer's responsibility to ensure that the facilities and functions of the Goods meet this and their end users requirements
- 7.5 Except in respect of death or personal injury caused by the Company's negligence the Company shall not be liable to the Customer by reason of any representation or any implied warranty Guarantee condition or other term or any duty at common law or under the express terms of the Contract for any consequential loss or damage (whether for loss of profit or otherwise) costs expenses or other claims through consequential compensation whatsoever (and whether caused by the negligence of the Company its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods (or their use by the Customer) except as expressly provided in these Conditions
- 7.6 Any liability of the Company hereunder (except in respect of death or personal injury caused by the Company's negligence) for any delay in performing or any failure to perform any of the Company's obligations in relation to the Goods shall be limited to the excess (if any) of the cost to the Customer in the cheapest available market of similar Goods to replace those not delivered over the Price
- 7.7 Save as specifically provided in the Conditions the Company shall have no liability for any defect in the quality of the Goods or their failure to correspond with description or sample or to be fit for any purpose and all other conditions warranties stipulations and undertakings whether express or implied by statute or common law are excluded to the fullest extent permitted by law.

8. TERMINATION:

- Without Prejudice to any other right or remedy available to it the Company shall be entitled to cancel the Contract or suspend any further deliveries of Goods under the Contract without any liability on the part of the Company to the Customer and if the Goods have been delivered but not paid for the Price shall become immediately due and payable for notwithstanding any previous agreement or arrangement to the contrary in the event that:-
 - (a) the Customer makes any voluntary arrangement with its creditors or becomes subject to any Administration Order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction)
 - (b) an encumbrancer takes possession or a Receiver is appointed of any of the property or assets of the Customer
 - (c) the Customer (if not a consumer within the meaning of the Unfair Contract Terms Act 1977) ceases or threatens to cease to carry on business
 - (d) the Customer breaches any of the Conditions
 - (e) the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly

9. FORCE MAJEURE:

- 9.1 Neither party shall be liable for any default in performing or failure to perform (other than a payment obligations) due to any act of god war strike lock-out industrial action fire flood drought tempest or any other event beyond the reasonable control of either party. Such delay or failure will constitute a breach of this Contract and time for the performance of the affected obligations will be extended by such period as is reasonable.

10. GENERAL:

- 10.1 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time
- 10.2 The headings in these Conditions are for convenience only and shall not affect their interpretation
- 10.3 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision
- 10.4 No failure of the Company to exercise any power given to it or to insist upon strict compliance by the Customer with any obligation hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute any waiver of any of the Company's rights under this Agreement
- 10.5 If any provisions of the Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby
- 10.6 Except as otherwise expressly provided nothing in this Contract shall confer on any third party any benefit or the right to enforce any terms of this Contract
- 10.7 The Contract shall be governed by the laws of England and subject to the jurisdiction of the English Courts. In the event of any dispute arising the Company shall be entitled to elect whether any proceedings shall proceed in England or within whatever domestic forum may apply where the Customer's business is located.