

TERMS AND CONDITIONS OF SALE

- 1. Application**
- (a.) These conditions shall form part of all contracts for the supply of goods (hereinafter called "the Goods") by Murdoch Builders' Merchants Limited (hereinafter called "the Company") to any other person or body corporate (hereinafter called "the Customer").
- (b.) All quotations and contracts are subject to the terms and conditions herein.
- (c.) Any qualifications or variations in the Customer's order or acceptance of an offer or otherwise shall be excluded unless expressly agreed by the Company in writing by an officer of the Company duly and expressly authorised.
- (d.) Commencement of any work by the Company or the fulfillment of any orders after delivery of these terms by the Company to the Customer shall, in the absence of any written acceptance, be deemed an unconditional acceptance by the customer of these terms.
- 2. Limitation of Authority**
- (a.) The Company's servants and agents have no authority orally to vary, modify or waive expressly or impliedly any of these conditions whatsoever or to any oral or written representation as to their effect save that an officer of the Company duly and expressly authorised may vary in writing any term contained herein.
- 3. Quotations**
- Quotations by the Company shall not constitute offers by the Company to supply the Goods or carry out work referred to therein, and no order placed in response to a quotation will be binding unless accepted by the Company in writing. All such acceptances by the Company are subject to availability of the necessary materials and to the Company being able to obtain any necessary authorisation and/or licenses and to the same remaining valid.
- 4. Payment**
- (a.) All accounts shall be paid without retention in accordance with the Terms and Conditions of credit as agreed with the Company.
- (b.) Notwithstanding (a) above the right to demand payment at any time is reserved.
- (c.) New accounts are subject to credit control procedures before being opened.
- (d.) The Customer shall not, without the written agreement of the Company, be entitled to deduct or set off from any money due pursuant hereto any claim for loss or expense alleged to have been incurred by the Customer by reason of any breach or failure to observe the provisions of this or any other contract by the Company and the Customer expressly waives any common law right of set off to which he may be entitled.
- (e.) Any complaints by the Customer as to the condition, quality or quantity of Goods supplied relating to a part or portion of an order shall not affect the liability of the Customer to make payment within the stipulated time in respect of the remainder of the order.
- (f.) Without prejudice to the Company's rights as set out above, all overdue payments and charges under (g) shall carry interest at the rate of 2% per annum above the U.K. Clearing Banks base lending rate for the time being and from time to time so long as the Customer's account shall remain unpaid.
- (g.) Notwithstanding (e) above, should the Customer default in payment of any sum for whatever reason on the due date then the Company shall be entitled to engage the services of a Credit Control/Debt Recovery Agency (the Agency) to assist the Company to recover all overdue payments from the Customer and the Customer shall indemnify the Company for all charges levied by the Agency against the Company for such services.
- (h.) Notwithstanding (e) and (f) above should be customer default in payment of any sum for whatever reason on the due date of commit any act of bankruptcy or if any resolution or petition to wind up the Customer's business shall be passed (other than for the purpose of amalgamation or reconstruction) or if a Receiver of the Customer's undertaking is appointed the Company may recover possession of the goods at any time and Clause 9(b) hereof shall apply.
- 5. Price Revision**
- In the absence of any specific provision, the prices to be charged shall be the prices ruling in accordance with the Company's prices at date of delivery or collection and orders are only accepted on this basis. All prices are subject to change without notice. V.A.T. is added to net prices at the rate applicable at the date of despatch. Prices are exclusive of freight, carriage, packaging, materials, insurance and any applicable duties.
- 6. Measurements**
- Any estimates of quantities for measurements (including those given in any quotation) by the Company are given without responsibility or guarantee of their accuracy and any additional materials required, whether as a result of the Company's estimates or otherwise, shall be charged to the Customer at the prices ruling at the date of delivery or collection of the Goods.
- 7. Product Usage**
- (a.) Information regarding weights, measurements, powers, capacities, performances and other data generally relating to the Company's products contained in advertisements, catalogues, price lists, illustrations or others similar matter submitted to the Customer by the Company, whilst given in good faith, must be regarded only as approximate and intended to present to the Customer a general guide, the accuracy of which the Customer must test for himself.
- (b.) Goods involved or supplied are not tested or sold as fit for any particular purpose and any term warranty or condition express implied or statutory to the contrary is excluded, in no circumstances whatsoever shall the Company's liability (in contract tort or otherwise) to the Customer arising under, out of or in connection with this contract or the Goods supplied hereunder exceed the replacement cost of the particular Goods or section of Goods concerned. All terms (express or implied) relating to the quality of Goods are warranties only, the breach or misrepresentation of which gives no right to reject the Goods or repudiate the contract in any circumstances whatsoever.
- (c.) No warranties implied by law shall apply unless the Goods are utilised in accordance with the manufacturer's recommendations and are used under normal and reasonable conditions.
- (d.) The Company will not in any event be liable for consequential loss, injury or damage or loss of profit or claim for contribution to the Customer's overheads arising out of any misrepresentation concerning the Company's products.
- (e.) The Customer shall duly indemnify the Company against any claim which may be made against the Company by any third party (which expression shall include the servants and agents of the Customer) and which relates in any way whatsoever to any of the Goods at any time after their delivery to the Customer.
- 8. Customer's Designs and Specifications**
- (a.) Where Goods are supplied to the Customer's own designs or specifications no warranty or guarantee is given or implied as to their suitability for the purpose for which they are to be used and no liability is accepted by the Company for failure or error in such designs or specifications.
- (b.) Where the Company has manufactured Goods to the Customer's order in reliance on the Customer's designs, specifications or measurements, the Customer shall be liable for the full price of such Goods notwithstanding that they are no longer required following any alteration in such designs and/or specifications and for the full cost of any alterations rendered necessary and/or materials wasted through the inaccuracy or variation of such designs, specifications or measurements.
- 9. Property and Risk**
- (a.) The risk in the Goods shall pass to the Customer:-
- (i) where the Company delivers Goods or causes Goods to be delivered, then as from their arrival at the point where they are to be unloaded
- (ii) where the Customer collects Goods or causes Goods to be collected then as from the point where they are collected. When Goods are loaded on to vehicles loading shall be the responsibility of and at the risk of the Customer
- (b.) Notwithstanding the foregoing until the payment in full is received the legal and beneficial ownership in the Goods shall remain with the
- Company and until then the Goods may be removed by the Company or its agents at any time.
- (c.) The customer shall keep and store the Goods in such a manner that they may be identified as being the property of the Company and the Customer shall insure the Goods with a reputable insurance Company in the name of the Company and shall produce a copy of the said Policy and proof of the premium if requested by the company so to do.
- (d.) The Customer, on entering into a contract with the Company, is deemed to have given his irrevocable authority to the Company or its agents to enter the Customer's property or property controlled by the Customer for the purpose of removing Goods in accordance with (b) hereof.
- (e.) The Customer may sell the Goods in the ordinary course of business before payment in full is received by the company and in such event:-
- (i) the Customer shall sell as principal and not as agent for the Company.
- (ii) the Customer shall hold that part of the proceeds of sale, which is equal to the price payable, as trustee of the Company
- (iii) the Customer shall account to the Company for the price payable
- (iv) the effect of the foregoing and of this Clause generally is to create a fiduciary relationship between the Company and the Customer and it is hereby accepted and acknowledged by the Customer that in the event of a dispute over any Goods supplied the interpretation of the Clause shall not be brought into question.
- 10. Variation in Finish**
- (a.) Claims for defects as to size, colour or texture will not be considered if made after utilisation.
- (b.) Due to the limitations of manufacturing process minor variations can occur as the dimensions quoted and no liability or responsibility will attach to the Company in respect thereof
- 11. Deliveries**
- (a.) The Customer, at his own expense, shall be responsible for the proper unloading (which shall be completed without delay) stacking, storing and protection of all Goods and for any cartage necessary after loading.
- (b.) The Customer, at his own expense, shall be responsible for the stacking, storing and protection of pallets or other device used by the Company to effect delivery and for any loss, damage or breakage to the same during unloading and subsequently until collected by the Company. The Customer shall ensure that collection of pallets or other device may be made from a central point.
- (c.) The Company shall endeavour to deliver promptly but the Company shall not be liable for any consequential loss or damage for delay arising after the agreed delivery date and ultimate delivery by the Company shall be in fair and reasonable time in the circumstances then prevailing.
- (d.) No claim for damage or discrepancy can be considered unless:-
- (i) where the damage or discrepancy is visible on inspection, the driver's Route Sheet is marked accordingly with short written details signed by the Customer or his agent and the claim is made in writing to the Company and Carrier within 3 days of receipt of the Goods.
- (ii) where the damage or discrepancy is not visible on inspection, the claim is made in writing within 10 days of receipt of the Goods
- (iii) the Customer shall preserve in safe storage any materials alleged to be damaged or defective pending disposal instructions from the Company.
- (e.) In the event that the Company agrees to deliver the Goods to an address nominated by the Customer other than the normal place of business address of the Customer, or to an address which is the address of the Customer's agent or Customer, Clause 11 (a), (b), (c) and (d) shall apply in full without diminution of the Customer's responsibility for the safety of the goods.
- 12. Cancellation**
- Cancellation or variation of orders by the Customer will entitle the Company to reimbursement for all costs, expenses and loss incurred by the Company as a consequence of accepting the Customer's order.
- 13. Days**
- In these conditions "days" shall mean "normal working days excluding weekends and Bank and public holidays".
- 14. Force Majeure**
- The Company shall not be liable for any loss or damage caused by the non-performance or by delay in the performance of any of its obligations to the Customer due to Act of God, war, civil disturbance, Government action, strike, lock-out or trade dispute (whether involving its own employees or those of any other person), difficulties in obtaining materials, breakdown in machinery, fire or accident or any other cause whatsoever beyond the control of the Company. Should any such event occur the Company reserves the right to cancel or suspend the contract with the Customer without incurring any liability for any loss or damage thereby occasioned.
- 15. Laws**
- (a.) The Customer shall ensure that the use to which the Company's Goods or property are to be put including without limitation any work done in accordance with the Customer specifications or other requirements does not contravene or infringe any local or national laws, bye laws or regulations or copyright, patents, registered designs or other right in Industrial property or other consents for the time being in force and will indemnify the Company against any claims costs and expenses arising out of any such contravention infringement.
- (b.) The contract as between the Company and the Customer shall be governed by and interpreted in accordance with the laws of Northern Ireland.
- 16. Waiver**
- No Waiver.
- 17. Ordering Goods**
- All specially made products with a value of >£500 must be authorised in writing prior to the placing of an order. This may be done through our sales rep or a member of staff in our business.
- 18. Returning Goods**
- (a.) **Specially Made Products**
Products that have been specially made may not be returned under any circumstances;
- (b.) **Non Standard Products**
Items not stocked at our branches but standard to our suppliers will be accepted for return only if they have been authorised for onward return to the supplier. Any credit given in such circumstances will be net of both our own and the supplier's restocking charges.
- (c.) **Standard Stock Products**
Murdoch Builders' Merchants Limited standard stock products will be accepted for return, after inspection by a sales rep, as long as:
- (i) Return is requested within 30 days of despatch;
- (ii) They are in saleable condition and in original packaging. (In case of doors this means in their original plastic wrapping);
- (iii) They are accompanied by proof of purchase;
- (iv) Credit for goods returned will be net of our 15% restocking charge.