

STANDARD CONDITIONS OF SALE

WILLIAM ROWLAND LIMITED ("the Seller")

1. GENERAL

- (1) These conditions (together with those stated on the face hereof) are the only conditions upon which the Seller is prepared to deal with the Buyer and they shall govern this Contract to the entire exclusion of any other express or implied conditions. To the extent that there is any inconsistency between the conditions set out on the face hereof and these standard conditions the former shall prevail.
- (2) These Conditions may only be modified by a variation expressed in writing (which shall include telexes) by the Seller and no other action on the part of the Seller (whether delivery of the goods or otherwise) shall be construed as an acceptance of any other conditions or of any modification hereto.
- (3) These Conditions (as modified in accordance with paragraph (2) and together with the matters referred to on the face hereof) embody the entire understanding of the parties and supersedes any prior promises, representations, undertakings or implications.
- (4) Any quotation in whatever form given to the Buyer is given subject to these Conditions and does not constitute an offer to sell. All orders placed with the Seller require the Seller's acceptance before any contract arises.
- (5) In these Conditions "the Buyer" means any person, firm or company who buys or agrees to buy goods from the Seller. The expressions "CIF" and "FOB" have the same meaning as in Incoterms 1990 published by the International Chamber of Commerce.

2. PRICE AND PAYMENT

- (1) The Buyer shall pay the price in the manner specified on the face hereof and prices quoted shall be ex warehouse unless stated to contrary on the face hereof. The time for payment shall be of the essence of the Contract.
- (2) The Seller reserves the right to alter any price quoted (whether due to fluctuations in rates of exchange or otherwise) at any time prior to the actual date of payment or delivery whichever later.
- (3) Where the Seller quotes a CIF price this shall not include import or other duties dues taxes and any other costs chargeable in respect of the cargo at point of discharge and any increase in freight rates duties taxes or dues in the country of final destination of the goods subsequent to the date of the contract shall be for the Buyer's account
- (4) If any payment that is to be made hereunder by the Buyer to the Seller is overdue without prejudice to any other rights in respect thereof interest will be chargeable thereon as well after as before judgement on a day to day basis at any annual rate of 4% above the Barclay's Bank Rate from time to time applicable until the sum is paid.
- (5) Where any sum owned by the Buyer to the Seller under this or any other contract (including but not limited to any interest) is overdue or if at any time the credit standing of the Buyer has in the opinion of the Seller been impaired for any other reason the Seller may withhold any deliveries of goods due to be made under this contract until arrangements as to payment or credit have been established which are satisfactory to the Seller or may in its discretion cancel the contract so far as it remains unperformed without any liability on the Seller for such cancellation and without prejudice to any other rights the Seller may have in respect thereof at the date of such suspension or cancellation as the case may be. If delivery has already been made the Seller may demand that any sums payable under this Contract be paid forthwith notwithstanding any credit or other terms of payment set out on the face hereof.

3. (A) RISK

Risk of damage to or loss of the goods shall pass to the Buyer:-

- (1) If the goods are sold "ex warehouse", at the time when the Seller tells the Buyer the goods are available for collection;
- (2) If the goods are to be delivered otherwise than at the Seller's premises, at the time when the goods are so delivered or tendered for delivery.

(B) RESERVATION OF TITLE

Notwithstanding the passing of risk in the goods the Seller shall remain the legal and beneficial owner of the goods until the Seller has received in cleared funds payment in full for the goods. Until such time:-

- (1) the Buyer shall keep the goods separate from the Buyer's and any third party's goods and shall keep them properly stored insured and identified as the Seller's property;
- (2) the Buyer shall be entitled to resell or use the goods in the ordinary course of the Buyer's trade but shall hold any proceeds of sale on trust for the Seller to the extent of any sums due to the Seller;
- (3) the Seller may require the Buyer to deliver up the goods forthwith and if the Buyer fails to do so the Seller may enter the Buyer's premises or any third party's premises where the goods are stored and repossess the goods.

4. SHIPMENT AND STORAGE

- (1) The date of dispatch (or if an ex warehouse contract the date of availability for collection) is the best estimate of such date but the Seller reserves the right to alter the same without notice.
- (2) The goods may be shipped in one or more parcels, and each shipment shall be treated as a separate contract to which the terms and conditions hereof shall mutatis mutandis apply: Provided that this condition shall be subject to and in no way derogate from the rights of the Seller under clause 1 1 hereof to suspend or terminate the whole contract in the circumstances mentioned.
- (3) Without prejudice to any other rights the Seller may have the Seller reserves the right to put the goods or any portion thereof into storage at the Buyer's risk and expense in the following cases:-
 - a. Where the goods are about to be despatched and Buyer notifies the Seller that the Buyer is or will be unable or unwilling to receive the goods or for any reason will be unable to accept delivery of the goods when tendered.
 - b. Where the Seller is ready to despatch the goods but needs delivery instructions and such instructions have not been provided by or on behalf of the Buyer or are inadequate or late.
 - c. In an ex-warehouse contract where the Buyer fails to collect the goods when they are ready for collection.
 - d. In an FOB contract where the Buyer fails to nominate a ship to the Seller.
 - e. Where the Seller suspends delivery of the goods pursuant to clause 2.
- (4) The Buyer agrees to ensure the prompt discharge turn-round and re-despatch of all and any road transport vehicles or other forms of carriage which have been used for the carriage of any consignment of material under this Contract and to indemnify and keep indemnified the Seller, its officers, agents and employees against any loss or liability

whatsoever arising or resulting from any delay in such discharge tum-round or re-dispatch.

5. INSURANCE

- (1) Where shipments under these Conditions are made CIF the goods are insured subject to Institute Commodity Trade Clauses (A) as amended by the policy conditions but excluding insurance against the risk of war, strikes, riots and civil commotions which risks shall only be covered at Buyer's request and cost. In the event of loss of, or damage to goods after shipment under this contract but prior to actual arrival at discharge port and payment therefore the buyer will make payment against the documents representing such goods in accordance with the Payment clause and in the event of the carrying vessel being lost such payment shall be made immediately loss of the carrying vessels is established.
- (2) Where the goods are to be delivered FOB the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

6. LIMITATIONS AND EXCLUSIONS

- (1) Save as provided expressly in these conditions, on the face hereof, and in section 12 of the Sales of Goods Act 1979 and except where the Buyer is dealing as a Consumer (within the meaning of the Unfair Contract Terms Act 1977) all conditions and warranties express or implied as to the quality or fitness for any purpose of the goods are hereby expressly excluded to the fullest extent permitted by law.
- (2) The Seller warrants that allowing for reasonable variations in quality goods sold against sample shall comply with such sample. Should goods fail to do so the Buyer shall give notice thereof forthwith upon delivery to the Seller then the Seller may in its discretion where satisfied that the goods failed to comply with such sample for the reason stated at the date of despatch either:-
 - a. replace the goods on the defective goods being returned to the Seller at the Buyer's cost such defective goods thereof becoming the Seller's property; or
 - b. repay the purchase price for the goods and if so required the Buyer shall return the defective goods to the Seller at the Buyer's cost such defective goods thereof becoming the Seller's propertyAnd on doing any of the matters referred to above the subject as hereinafter provided the Seller shall be under no liability or obligation to the Buyer or any other person in respect of any defect in the goods.
- (3) Save as provided above the Seller shall be under no liability by reason of any delivery of any goods which it is alleged do not comply with or have not been made to comply with the description or specification or sample applicable in this contract and the Buyer accepts the Seller's obligation above in lieu of any remedy or right he might otherwise have in respect of such delivery notwithstanding that failure in this first instance to provide goods which comply with the contract or which have been made so to comply be due to negligence on the part of the Seller its employees agents sub-contractors or others.
- (4) In the case of any other breach of contract not covered by the foregoing including failure to deliver on time or at all by the Seller the maximum amount recoverable by the Buyer shall be the price already paid.
- (5) In any event the Seller's aggregate liability to the Buyer in respect of any breach or breaches or non-performance if the contract howsoever caused or arising shall not exceed the purchase price of the goods.
- (6) All drawings descriptions illustrations specifications performance data dimensions weights and the like whether contained in any contract or made by way of representation will have

been provided by the Seller on the basis they are as accurate as reasonably possible but the Seller does not warrant and no warranty shall be implied that the same are accurate.

- (7) The Seller shall not be liable under any circumstances for any loss or damage howsoever caused which arise in respect of indirect or consequential loss or damage which shall for the purpose of this clause include but not be limited to any loss or damage in respect of profits or income or business or whatsoever kind.
- (8) Nothing in this clause 6 shall exclude or limit the liability of the Seller for death or personal injury caused by the negligence of the Seller.

7. HEALTH AND SAFETY

The goods are sold on condition that:

- (1) the Buyer carries out such tests and examination of the goods as are reasonably practicable to ensure that when used the goods are safe and without risk to health and comply with all local laws and regulations: and
- (2) The Buyer shall, if so requested by the Seller, enter into a written undertaking to take such steps as may be specified by the Seller relating to such tests and examination.

8. IMPORT LICENCES ETC.

The Buyer shall indemnify the Seller against any loss or expense to the Seller arising from failure by the Buyer to obtain in due time any import licence or permit or the like which may be required for the importation of the goods at destination or from the subsequent revocation or non renewal of such permit.

9. WEIGHTS

- (1) The Buyer hereby accepts an allowance of +/- 10% (or such other allowance as stated overleaf) in respect of the weight of goods delivered to the Buyer as against weight of goods as agreed to be sold under this contract.
- (2) Save as stated to the contrary overleaf the Buyer is deemed to accept the Seller's declared weights and the Seller shall have no liability for any claim for short weight in respect of any variation in weight within the allowance referred to in paragraph (1) of this condition 9 or otherwise.

10. ACCEPTANCE AND NOTICE OF CLAIMS

Immediately upon receipt of the goods the Buyer shall examine the same to check that the quality and weight conform to this Contract. Any use, conversion or disposal of the goods by the Buyer shall be deemed to constitute approval and acceptance of them. Any claim against the Seller arising under this Contract must be made in writing and delivered to the registered office of the Seller within thirty days of delivery of the goods to the Buyer.

11. FORCE MAJEURE

- (1) The Seller shall not be liable for any loss or damage caused by delay in the performance or non-performance of any of its obligations hereunder where the same is occasioned by any cause whatsoever that is beyond its control including but not limited to Acts of God, war, riots, civil disturbance, requisitioning, fire, explosions, sabotage, storm, flood, earthquake, fog, subsidence, adverse climatic conditions, pestilence, epidemics, governmental or

parliamentary restrictions or regulations, non-availability or interruption or deviation in shipping or other transport strikes, shortage of labour, lock-outs or trade dispute (whether involving its own employees or those of any other person) collapse of structures, cessation or interruption of operation of any plant or process, failure of supply of raw materials or components or other operating requirement, breakdown of machinery. Should any such event occur the Seller may suspend this contract without incurring any liability for any loss or damage thereby occasioned and the duration of such period of suspension shall be added to any delivery date or period herein specified and the Seller so affected by such cause shall give immediate notice thereof to the Buyer in writing

The Seller shall be regarded as affected by such cause if such cause affects the producer of the goods and this occasions delay in the performance of the Seller's obligations hereunder.

- (2) Upon the Buyer receiving notice as in (1) above, pricing of unshipped goods so affected by the cause shall cease and shall not be resumed until the cause of such notice ceases to affect the performance of this contract. Nothing contained in this paragraph shall release in Buyer from its obligations to price and pay for any goods already shipped or for which freight has been engaged for shipment prior to the giving of such notice by the Seller.
- (3) To the extent that any such cause affects the production or shipment of material to be supplied hereunder, the quantity to be supplied hereunder may be reduced rateably to the proportional loss in production or shipments.
- (4) After termination of any such cause there shall be no obligation upon the Seller to make good to the Buyer any quantities of goods which the Seller has been unable to supply.
- (5) Where the Seller has the option to supply alternate goods and has duly declared that option in favour of certain goods and those goods are subsequently rendered unavailable by reason of force majeure, the Buyer may not then require substitution of the alternative goods. The provisions of this clause shall apply to the goods in respects of which the declaration has been made without regard to the availability or otherwise of the alternative goods.
- (6) In the event of the cause of suspension lasting more than three months the Seller shall, upon written notice to the Buyer, be entitled to treat the contract as terminated without liability to the Buyer at the date of such notice. Termination shall be without prejudice to the rights and obligations of the parties up to and including the date of such notice and shall not affect the buyer's obligation to accept in due course goods already priced.

12. GOVERNING LAW

This contract is governed by the laws of England and the English High Court of Justice (to the jurisdiction of which the Buyer hereby irrevocably submits) shall have the exclusive jurisdiction to resolve any disputes arising out of it.