

Products Limited Terms and Conditions Of Sale

1. DEFINITIONS

In these conditions:

“The seller” means Eurocarb Products Limited or any of its associated companies being any company which is from time to time a subsidiary or holding company (as those expressions are defined by section 736 companies Act 1985) of the seller or a subsidiary (other than the seller) of a holding company of the seller.

“The buyer” means the person who accepts a quotation of the seller for the sale of the good or whose order for the goods is accepted by the seller. “the goods” means the goods (including any instalment of the goods or any parts of for them) which the seller is to supply in all cases in accordance with these conditions of contract.

“The contract” means a contract for the purchase and sale of the goods.

2. BASIS OF THE SALE

2.1 The seller shall sell and the buyer shall purchase the goods in accordance with any quotation of the seller which is accepted by the buyer or any order of the buyer which is accepted by the seller subject in either case to these conditions which shall govern the contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or any such order is made or purported to be made by the buyer.

2.2 No quotation which has been accepted by the buyer or order which has been accepted by the seller may be cancelled by the buyer except with the agreement in writing of the seller and on terms that the buyer shall indemnify the seller in full against all loss (including loss of profit) costs (including the cost of all labour and materials used) damages, (charges and expenses incurred by the seller as a result of cancellation.

2.3 Any advice or recommendation given by the seller, its employees or agents to the buyer or its employees or agents as to the storage, application or use of the goods, which is not confirmed in writing by the seller, is followed or acted upon entirely at the buyer’s own risk and accordingly the seller shall not be liable for any such advice or recommendation which is not so confirmed.



3. SPECIFICATION

3.1 Unless specified in these conditions, or otherwise expressly agreed in writing by the seller all descriptions, illustrations and performance details contained in catalogues and advertisements and all other statements made with regard to materials produced by the seller are intended for information only and shall not form part of any contract.

4. DELIVERY

4.1 Delivery of goods shall be made by the seller (or its agent) delivering the goods to the place specified by the buyer (or its agent) or by the buyer collecting the goods from the sellers premises at any time after the seller has notified the buyer that the goods are ready for collection.

4.2 The seller reserves the right to make an extra charge for carriage and packing unless these items are expressly included in its quotation.

4.3 Any dates quoted for delivery of the goods are approximate only and the seller shall not be liable for any delay in delivery of the goods howsoever caused. Time of delivery shall not be of the essence unless previously agreed by the seller in writing. The goods may be delivered by the seller in advance of the quoted delivery date upon giving reasonable notice to the buyer.

4.4 Where delivery of the goods is to be made by the seller in bulk the seller reserves the right to deliver up to ten percent more or 10 percent less than the weight or volume ordered without any adjustment to the unit price of the goods and the quantity so delivered shall be deemed to be the quantity ordered and shall be paid for accordingly.

4.5 Where the goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the seller to deliver any one or more of such instalments in accordance with these conditions or any claim by the buyer in respect of any one or more instalments shall not entitle to treat the contract as a whole as repudiated.

4.6 The seller shall not be responsible for delivery being delayed hindered, prevented or impeded by reason of strike, lockout, shortage of labour and/or parts, fire, frost, accidents, breakdown, acts of god, force majeure, failure to deliver by any sub-contractors, or due to any cause whatsoever beyond the control of the seller or its principal. The seller shall be entitled to suspend delivery under this contract (upon giving notice in writing to the buyer) for the period required to overcome the consequences of such causes or delivery or delay, and the buyer shall not be entitled to cancel the contract without seller's written consent or to make any claim upon the seller in respect of any non-delivery or delay.



5. PRICE

5.1 The price of the goods shall be the seller's quoted price plus any applicable value added tax ("the price of the goods"). All prices quoted are only valid during the calendar month in which such quotation is made, unless specified in a written quotation, withdrawn earlier by the seller or earlier acceptance by the buyer.

5.2 The right is reserved to invoice an extra charge for goods supplied to the buyer in quantities below the minimum quoted.

6. PAYMENT

6.1 Subject to any special terms in writing between the buyer and seller, the seller shall be entitled to invoice the buyer for the price of the goods on or at any time after delivery of the goods, unless the goods are to be collected by the buyer or the buyer wrongfully fails to take delivery of the goods, in which event the seller shall be entitled to invoice the buyer for the price of the goods at any time after the seller has notified the buyer that the goods are ready for collection or (as the case may be) the seller has tendered delivery of the goods.

6.2 Subject to clause 6.3 the buyer shall pay the price of the goods on or before the last day of the month following month of invoice unless otherwise agreed in writing and specified on the invoice (such intervening period of credit being hereinafter referred to as "the credit period"). Time for payment shall be of the essence.

6.3 In the event of the appointment of an administrative receiver to the buyer's business or the passing of a resolution or presentation of a petition to wind up the buyer or the buyer making any voluntary arrangements with its creditors or (being an individual or group of individuals) the buyer having a bankruptcy notice served upon it or the buyer ceasing to trade or upon the happening of any event which in the seller's opinion adversely affects the buyer's ability to discharge his outstanding liabilities to the seller then, without prejudice to any other right or remedy available to the seller, the seller shall be entitled to cancel any contract which remains wholly or partly to be performed or suspend any further deliveries under such contract without any liability to the buyer or require payment in advance for any such delivery and if the goods have been delivered but not paid for their price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

6.4 If the buyer fails to make any payments within the credit period then without prejudice to any other right or remedy available to the seller, the seller shall be entitled to:

6.4.1 Cancel or suspend any Contract, which remains wholly or partly to be performed.



6.4.2 The buyer shall pay interest, both before and after any judgement) on the amount unpaid, at the rate of 3 per cent per annum above HSBC 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)

7. RISK AND PROPERTY

7.1 Risk of damage to the loss of the goods shall pass to the buyer upon delivery to the buyer.

7.2 Notwithstanding delivery and the passing of risk in the goods, or any other provision of these Conditions, the property in the goods shall not pass to the buyer but shall remain the absolute property of the seller as legal and equitable owner until the seller has received in cash, or cleared funds, payment in full of the goods any interest payable thereon, and on all other goods agreed to be sold by the seller to the buyer for which payment is then due.

7.3 Until such time as the property in the goods passes to the buyer (and provided the goods are still in existence and have not been resold) the seller shall be entitled at any time to require the buyer to deliver up the goods to the seller.

7.4 The buyer irrevocably and unconditionally authorise the seller to enter its premises (or any premises reasonably thought by the seller to be used by the buyer) for the purpose of repossessing goods following a demand for delivery up thereof.

7.5 Until such time the property in the goods passes to the buyer the buyer shall hold the goods as the seller's fiduciary agent and bailee and shall keep the goods separate from those of the buyer and third parties and properly stored, protected and insured and identified as the seller's property.

7.6 Without prejudice to sub-paragraphs 7.2 and 7.5 hereof, pending the passing of property in the goods to the buyer the buyer shall be entitled to resell or use the goods in the ordinary course of its business provided that as between the seller and the buyer in any resale of such goods by the buyer to a third party the buyer shall act as agent of the seller and shall pay the entire proceeds of sale into a separate account and hold the same upon trust for the seller and further the buyer shall not mix such proceeds with any monies other than the proceeds of other sales of the seller's goods.

7.7 The provisions of this paragraph shall not entitle the buyer of the goods to refuse or delay payment on the grounds that the property in them has not passed to the buyer.



8. WARRANTIES AND LIABILITIES

8.1 Nothing in these conditions shall be deemed to exclude or restrict the seller's liability for death or personal injury resulting from negligence.

8.2 Subject to these conditions set out below, and any conditions or tolerances specified by the seller in its technical literature, and the buyer adopting the environmental conditions for the use of goods (if any) specified in such technical literature the seller warrants that the goods will correspond with their specification at the time of delivery of the buyer.

8.3 No representation or warranty is given as to the suitability of fitness of the goods for any particular purpose and the buyer shall be responsible for ascertaining whether the goods are suitable or fit for the buyer purpose.

8.4 The buyer shall inspect the goods immediately on delivery and any claim by the buyer which is based on any shortage or defect in the quality or condition of the goods or their failure to correspond with specification, shall (whether or not delivery is refused by the buyer) be notified to the seller in writing within 7 days from the date of delivery and if not the buyer shall not be entitled to reject the goods and shall be bound to pay their price and the seller shall have no liability for such storage, defect or failure.

8.5 Where any valid claim in respect of any of the goods, which is based on any shortage or defect in the quality or condition of the goods or there is failure to meet specification, is notified to the seller in accordance with these conditions the seller shall be entitled to make good of the shortage, replace the goods free of charge or take such remedial steps as it sees fit or at the seller's sole direction refund to the buyer the price of the goods (or a proportionate part thereof) but the seller shall have no further liability to the buyer.

8.6 Except as expressly provided in these conditions the seller shall not be liable to the representation, statement or any implied warranty condition or other term or any duty at common law or under the express terms of the contract.

8.6.1 The seller shall not be liable to the buyer by reason of any representation, statement or any implied warranty condition or other term or any duty at common law or under the express terms of the contract for any consequential loss or damage whatsoever (and whether caused by the negligence of the seller, its employees of agents or otherwise) which arise out of or in connection with the supply of goods or the use or resale by the buyer.

8.7 The seller shall not be liable to the buyer for any delay or failure in performing any of the seller's obligations arising out of any cause beyond the seller's reasonable control.

9. LIMITATION OF LIABILITY

9.1 Without prejudice to paragraph 8 the seller's total liability for any one claim or for the total of all claims arising from any one act or default of the seller's (whether arising from the seller's negligence or otherwise) shall not exceed the price of goods through which the loss or damage arises.

10. INDEMNITY

10.1 The buyer shall indemnify the seller on demand against any cost, charges, loss or expense, including legal fees, which the seller may sustain or incur as a consequence of any failure by the buyer promptly to perform its obligations hereunder.

11. TRADE MARKS AND PATENTS

11.1 The supply of goods by the seller shall not confer any right upon the buyer to use any of the seller's trade marks without the written consent of the seller previously obtained and at all times such trade marks shall remain the property of the seller. Any such supply does not imply any right to the buyer to use any patent of the seller.

12. GENERAL

12.1 No waiver by the seller of any breach of the contract by the buyer shall be considered as a waiver of any sub-sequent breach of the same or any other provision.

12.2 If any provision of these 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 to the provision in question shall not be affected thereby.

12.3 The provisions hereof shall be read and construed according to English Law and any actions arising shall be taken in the English Courts