

For the Attention of the Buying Department

Ryknel Tean Standard Terms and Conditions of Sale

GENERAL

1. These Terms and Conditions together with any other terms and conditions agreed between the Buyer and Seller in writing constitute the entire contract between the Buyer and the Seller and shall prevail over any terms and conditions stipulated by the Buyer and no amendments hereto shall be effective unless expressly agreed between the Seller and the Buyer in writing. The expression "the goods" shall mean the goods which are the subject matter of the contract to which these Terms and Conditions apply.

PRICES

- (a) All prices quoted or listed are exclusive of VAT taxes levies or duties from time to time in force.
- The Seller reserves the right without prior notice to vary the price to take account of any increase in the current cost of materials and transport and in current rates of import duty or other customs and excise duty or government levy.
- Unless otherwise agreed the price shall be deemed to be ex-Seller's works.

SAMPLES

- (a) Any inspection of a sample of the goods by the Buyer shall be deemed to take place solely to enable the Buyer to judge for itself the quality and general suitability for its purposes of the bulk of the goods and shall not cause the sale of the bulk of the goods to be a sale by sample.
- The goods shall be deemed to correspond with any specification given of them if they correspond with any sample which has been produced to and examined by the Buyer.
- If the Buyer produces a sample of any goods which he requests the Seller to match the Seller shall be responsible for ensuring only that the goods match the Buyer's sample as nearly as the Seller finds possible in colour appearance and dimension and not in any other respect (including without limitation description technical specification quality or fitness for any purpose).
- The Buyer warrants that work done by the Seller or any other person in accordance with any specification sample or request by the Buyer and the products of such work will not infringe the rights of a third party (including without limitation industrial property rights) and agrees to indemnify the Seller against all liabilities claims demands damages costs and other sums incurred suffered or paid by the Seller as a result of any such infringement.

PROPERTY AND RISK

- (a) From the moment of delivery to the premises agreed by the Buyer and the Seller or where carriage is to be made by independent carriers then from the time of delivery to such carriers or where the goods are sold ex-works then from the time the Buyer is notified that the goods are ready for collection, the goods are at the risk of the Buyer notwithstanding anything contained in these retention of title conditions.
- No property in or title to the goods shall pass from the Seller to the Buyer until the Buyer has made full and unconditional payment to the Seller of:-
 - all sums due from the Buyer to the Seller under this contract in respect of the goods; and
 - all other sums due from the Buyer to the Seller on any account whatsoever, whether arising on contracts entered into before or after the date of this contract or otherwise.

(c) On or at any time after the happening of any event referred to in sub-clause 17 (b) hereof or if payment on any contract between the Buyer and the Seller is overdue in whole or in part prior to the property in the goods passing from it to the Seller (without prejudice to its other rights) shall be entitled (but not bound) to treat itself as discharged from its obligations under this contract and to forfeit any sum or sums paid to it by the Buyer in respect of the goods and to recover the goods by entry into and removal from the Buyer's premises by action or otherwise and to re-sell the goods.

(d) The Buyer may (but only in the ordinary course of its business) re-sell the goods notwithstanding that at the time of re-sale the same are the property of the Seller and title thereto is in the Seller by reason of the provisions of sub-clause (b) above PROVIDED ALWAYS that the Buyer shall as fiduciary account to the Seller for the proceeds of such re-sale to the intent that such proceeds (or so much thereof as shall be equal to the total of the sums referred to in sub-paragraphs (i) and (ii) of sub-clause (b) above) shall be held by the Buyer to the credit of its account with the Seller.

(e) Until the property in and title to the goods passes from the Seller the Buyer as fiduciary shall keep the goods safe and if the Seller so requires shall store the goods and any other goods with which or into which the goods are mixed or incorporated separately so that the goods can be recognised as the Seller's property.

(f) Where the goods are mixed with or incorporated into other goods (hereinafter called "the resulting product") prior to their re-sale by the Buyer in circumstances where the property in and title to the goods has not passed to the Buyer the Seller shall be entitled only to, and the Buyer as fiduciary shall account to the Seller in respect of, such proportion of the proceeds of sale of the resulting product under sub-paragraph (d) above as the proportion of the price payable hereunder bears to the aggregate of the prices of the goods comprised in the resulting product.

(g) If the Buyer mixes the goods with or incorporates the goods into other goods (hereinafter called "the resulting product") the Buyer shall if so required by the Seller keep such records as shall enable the Buyer and the Seller at all times prior to payment of the sums referred to in sub-clauses (b) (i) and (ii) hereof to ascertain:-

- the fact that the goods are or were incorporated in and/or mixed with the resulting product and the extent to which the goods were so mixed or incorporated; and
- on the sale of the resulting product the fact that the goods were so incorporated in and/or mixed with the resulting product and the extent to which the same were so mixed or incorporated, the amount of the proceeds of sale of the resulting product, and the proportion which the contract price of the goods bears to the aggregate of the prices of the goods comprised in the resulting product.

h) Nothing in any of the foregoing sub-clauses shall appoint or be taken as evidence of the appointment of the Buyer as agent of the Seller nor entitle the Buyer to return the goods nor in any way limit or modify the Buyer's obligation to pay the purchase price for the goods in accordance herewith.

SPECIFICATIONS AND REPRESENTATIONS

- (a) Where specifications or instructions relating to manufacture or delivery are to be supplied by the Buyer these shall be delivered to the Seller on demand and if not so delivered the Seller may at its option either postpone for a reasonable time the delivery date for the goods or terminate this contract.
- Whether or not the goods are manufactured to the Buyer's specifications or standard goods are modified altered processed or amended at the Buyer's request the Buyer is responsible for satisfying itself as to the suitability of the goods for its purposes and the Buyer's entry into this Contract shall be conclusive evidence that it is so satisfied. Unless otherwise expressly agreed in writing the Seller shall not be liable in any way for the life or wear of the goods or their performance or fitness for any particular purpose or for their use under any specific conditions notwithstanding that such purpose or conditions may be known or made known to the Seller and any express or implied warranty or condition to that effect (statutory or otherwise) is excluded.
- Unless otherwise expressly agreed in writing all specifications by the Seller are approximate only and the goods will be supplied in accordance with the Seller's normal specifications from time to time in force but the Seller reserves the right to vary any specification or to cease to manufacture goods of the precise nature description or specification of the goods ordered by the Buyer and any such variation or cessation or the substitution of alternative materials shall not give rise to any claim against the Seller.
- The Buyer acknowledges that it has not entered into this Contract in reliance on anything said or written in the negotiations between the parties or their representatives or on anything contained in the Seller's catalogues price lists or other advertising matter.

REJECTION OF GOODS AND CLAIMS

- The Buyer shall inspect the goods on delivery and shall within seven days of receipt of the goods give notice in writing to the Seller of any matter or thing by reason whereof the Buyer alleges the goods are not in accordance with the Contract. The Buyer shall allow the Seller and its authorised representatives to inspect only goods represented to be defective. If the Buyer shall fail to give such notice the goods shall be deemed to be in all respects in accordance with the Contract and the Buyer shall be deemed to have accepted the goods and shall pay for them accordingly.
- Defects in the goods comprised in any delivery shall not be a ground for cancellation of the remainder of the goods to be supplied under the Contract. Notwithstanding any alleged defect in the goods the Buyer shall be responsible for the safe custody of the goods for a reasonable time pending their return to the Seller.
- (a) Any claim for damage to or non delivery of the goods for which the Seller is liable shall be conditional on the Buyer giving separate written notice to the Seller and the carrier of the goods (otherwise than by a qualified signature on the carriers delivery note):-
 - in the case of partial loss or damage to any consignment within three days of the delivery of the consignment (or part consignment) and
 - in the case of non delivery of goods for delivery in the United Kingdom within fifteen days of the date of despatch or
 - in the case of non delivery of the goods for delivery outside the United Kingdom within ten days of the due delivery date

AND on a complete claim in writing being made separately to the Seller and the carrier within fourteen days of such initial notification.

(b) Notwithstanding any claim made under sub-clause (a) (i) above the goods are to be removed from the place of delivery to the consignee's warehouse without delay and all storage rental and other charges shall be paid by the Buyer.

DELIVERY

- Unless the Seller expressly agrees in writing to a particular delivery date delivery periods shall run from the Seller's written confirmation of the Buyer's order. All delivery dates and delivery periods are to be treated as estimates only and the Seller shall not be liable to the Buyer for any damage or loss arising directly or indirectly out of delay in delivery for reasons outside its direct control howsoever occurring.
- (a) If for any reason the Buyer is unable to accept delivery of the goods at the time when they are due and ready for delivery the Seller shall be entitled to invoice the Buyer for the goods at the time when the goods are ready for despatch and shall be entitled but not bound to arrange storage either on the Seller's premises or elsewhere and insurance of the goods in which event the Buyer shall pay to the Seller on demand such amount by way of storage insurance and other charges as the Seller may determine.
- (b) Where the goods are sold ex-works if the Buyer fails to take delivery of any goods within twenty-eight days of notification by the Seller that such goods are ready for delivery the Seller shall be entitled in addition to its other rights, hereunder to resell the same.
- (c) Where the Seller delivers the goods by instalments it shall be entitled to deliver invoices covering each instalment.
- (d) A receipt purporting to be signed by or on behalf of the Buyer shall be conclusive evidence of the delivery of the goods specified in the delivery or consignment note.

SHIPMENT

- (a) The Buyer shall if required accept a delivery order in lieu of a bill of lading.
- (b) Where goods are sold FOB it shall be the duty of the Buyer to ensure that the carrying vessel and manner of storage of the goods are suitable for safe storage of the goods.

INSURANCE

12. Where goods are sold CIF the Buyer shall if required accept a Brokers Note or a certificate of insurance in lieu of an Insurance Policy.

FAILURE TO NOMINATE A VESSEL

13. Where goods are sold FOB the Buyer shall fail to nominate a vessel for shipment of the goods within fourteen days of the Seller requiring the Buyer to do so the purchase price will immediately become payable by the Buyer and the Seller may (at the Buyer's cost and risk) deliver the goods onto such vessel as it selects.

TERMS OF PAYMENT

- (a) Payment shall be in accordance with the terms of payment stated overleaf or on the Seller's confirmation of the Buyer's order. Payment is not to be refused or delayed because of any alleged defect in the goods.
- (b) If the Buyer shall default in making payment of any sum due under the contract the Seller may (without prejudice to its other rights and remedies) suspend all further deliveries of any goods ordered by the Buyer from the Seller until the default has been remedied and/or alternatively cancel the Buyer's order insofar as any goods remain to be delivered under any contract between the Buyer and the Seller. In either event the Buyer shall also be liable to the Seller for the cost of all materials and work in connection with manufactured or partly manufactured goods acquired or made by the Seller for the purpose of further deliveries to the Buyer less an allowance of the value thereof as realised or as utilised by the Seller for other purposes.
- (c) Interest at the rate of 2 per centum above HSEB PLC's base rate from time to time shall be paid as from the due date by the Buyer on all accounts remaining unpaid after the expiry of thirty days from the due date for payment.
- (d) The Buyer shall pay any VAT duty tax levy or any other payment imposed by any legislative body relating to or in any way affecting the goods together with any costs arising therefrom.
- (e) All bank charges to be paid by the customer.

EXPORT/IMPORT LICENCES AND LEVIES

15. It shall be the duty of the Buyer to obtain all necessary licences for export or import of the goods and there shall be no implied warranty or condition on the part of the Seller that the Buyer will obtain any licence for such export or import or other licences required for the delivery or sale of the goods to or in the country to which the goods are to be exported or for the transit of the goods through any country in the course of delivery.

GENERAL LIABILITY

- (a) The Buyer accepts the Seller's express obligations herein regarding compliance with specifications and samples as sufficient for its purposes and accordingly any other statutory or other warranty or condition or obligation expressed or implied as to the condition state quality fitness or description of the goods the subject of this Contract or their compliance with any sample is hereby expressly excluded.
- (b) Neither the Seller nor any employee agent or representative of the Seller shall be under any liability in contract or otherwise for the death of or injury to any person or for any loss or damage of whatsoever kind or howsoever caused whether due to the negligence of the Seller or any employee agent or representative of the Seller or for anything done or omitted in connection with or in relation to the goods.
- (c) If all or any part of the goods do not comply with the requirements concerning specifications and/or samples agreed by the Seller or are otherwise defective the Seller shall if the goods are at its expense returned to it either (at the Seller's option) repair or replace the goods or if in the Seller's judgement that it is not practicable the Seller shall repay to the Buyer the price or the relevant proportion thereof received by the Seller for the goods.

- (d) Save as above neither the Buyer nor any other person shall have any claim against the Seller for any loss or damage or for work done loss of profit of consequential loss or damage howsoever arising in connection with the goods (whether or not as a result of the negligence of the Seller or its subcontractors suppliers employees or agents).
- (e) The Buyer agrees that all losses or damages referred to in sub-clause (d) above shall be borne by it and further agrees in the event of a claim being made against the Seller to indemnify the Seller against all damages costs claims demands and other sums paid or incurred by the Seller as a result of any claim made by any person other than the Buyer arising out of any defects in the goods or their failure to comply with any specification and/or sample.

UNFORESEEN EVENTS

- (a) In the event of a stoppage delay or interruption of work in the establishment or business of the Seller or of any supplier subcontractor or carrier or agent for reasons outside the direct control of the Seller supplier subcontractor carrier or agent (as the case may be) (including without limitation strikes lockouts trade disputes breakdown accident fire water or explosion) or in the event of shortages or delays in the supply of or defects in materials or in the event of any other occurrence (whether of the foregoing nature or not) outside the direct control of the Seller or of any supplier sub-contractor carrier or agent (as the case may be) preventing or hindering performance of the Seller's obligations under this Contract.
- (a) The period for delivery of such of the goods as have not then been delivered may at the Seller's option be extended for the period of any such stoppage delay or interruption or for such longer period as may be reasonable; and
- (b) Whether or not the delivery period has been extended the Seller shall be entitled to make partial deliveries of the goods and to invoice the Buyer therefor; and
- (c) Whether or not the delivery period has been extended and/or partial deliveries have been made of the goods the Seller may terminate this Contract forthwith by giving the Buyer written notice to that effect.

TERMINATION

- The Seller shall be entitled (without prejudice to its other rights) by written notice to the Buyer forthwith to determine this Agreement on the happening of any of the following events:-
 - if the Buyer shall be in breach of any agreement herein contained;
 - if an order shall be made or an effective resolution passed for the winding up of the Buyer or if an embargement shall take possession or a receiver be appointed in respect of any of the assets of the Buyer or if a distress execution sequestration or other process shall be levied or enforced upon or against any of the assets of the Buyer or if the Buyer shall cease or threaten to cease to carry on business or be unable to pay its debts within the meaning of Section 223 of the Companies Act 1948 or if the Buyer shall make any arrangement or composition with its creditors or if any equivalent or similar event shall arise in relation to the buyer in any jurisdiction.

WAIVER

19. The waiver whether expressed or implied by the Seller of any breach of any term of this Contract shall not prevent the subsequent enforcement of that term as and when deemed expedient by the Seller and shall not be treated as a waiver of any subsequent breach thereof.

ASSIGNMENT

20. The rights and obligations of the Seller hereunder may be assigned or subcontracted by it.

JURISDICTION

21. This Contract shall be governed by and construed in accordance with the laws of England.

HEAD NOTES

22. These terms and conditions of sale shall be construed without reference to the head notes. F61 Issue 2 04/13