

**General Conditions of Sale**

**1. DEFINITIONS AND INTERPRETATION**

In these General Conditions of Sale, unless the context otherwise requires:

- (a) "Company" means Permal Gloucester Ltd. "contract" means the party having the right to enforce the supply by the Company of goods and/or services of any description under the terms of a contract;
- (b) the singular number shall include the plural and vice versa, and
- (c) the titles to the several conditions are inserted for convenience only and shall be deemed not to form part of the conditions.

**2. QUOTATIONS**

- (1) Quotations in writing alone shall bind the Company; they remain valid for 30 days from their date of issue and then expire, unless renewed in writing by the Company.
- (2) Designs, drawings, illustrations and samples supplied by the Company to the Customer remain the property of the Company, and may not be copied or reproduced, and are to be returned to the Company within a reasonable time.

**3. PRICES**

- (1) Notwithstanding that the Company may have quoted a price, the Company reserves the right to vary prices to take account of increases in the Company's costs incurred before the date of delivery.
- (2) Unless stated or agreed otherwise, the Company's prices for goods are ex-works prices
- (3) Quoted prices relate to the quantity of goods quoted for, and may not be applicable if a different quantity of goods is ordered.
- (4) Goods ordered in quantity may be supplied plus or minus 10% of the amount ordered and shall be invoiced according to the amount supplied.
- (5) Containers and packing material may be charged extra to the contract price but the amount charged will be refunded or credited in full if they are returned to the Company in good condition within three calendar months of the date of the Company invoice for them
- (6) Where the contract requires the Company to deliver, the contract price does not include for demurrage which may be incurred by reason of circumstances outside the Company's control; such demurrage shall be the responsibility of the Customer.
- (7) If the Customer's performance of the contract is interrupted or hindered for any reason other than the default of the Company, the Customer shall be liable to pay the Company a proper price for any additional work or attendance thereby required.

**4. CONTRACTS**

- (1) A contract shall not come into existence until the Company despatched its written acceptance of the Customer's order, or commences to deliver the goods, whichever shall occur the sooner.
- (2) The terms and conditions of a contract shall be such as are contained in the Company's quotation together with these as the law may permit of all other terms and conditions whatsoever, whether excess or implied.
- (3) The terms and conditions of a contract shall be limited to such as are expressed in writing, to the exclusion of oral expressions whether of advice, opinion or otherwise.
- (4) Where a term of a quotation, or any other express term of a contract, is found to be in conflict with any one or more of these General Conditions, the terms of the quotation or the other express term of the contract, as the case may be, shall prevail
- (5) The Customer acknowledges that it has not been induced to enter into the contract by any representation made by or on behalf of the Company, except such as may be contained in, or endorsed by, the terms of contract.

**5. TAX**

Unless otherwise quoted or agreed, the Company's prices do not include Value Added Tax or any other tax, levy, duty or surcharge, whether imposed before or after the making of the contract.

## **6. PAYMENT**

(1) The Company's invoices are due for payment not later than the 21st day of the calendar month immediately following the month in which the invoice is raised.

(2) Except as the Company's quotation may provide, no discounts are allowable, or may be taken, against amounts invoiced notwithstanding any previous course of dealing between the Company and the Customer.

(3) When payment of any Company's invoices is overdue, the Company may:

(a) suspend its performance of the contract to which the invoice relates and/or of any other contract then subsisting between the Company and the Customer;

(b) debit and recover from the Customer simple interest on the amount overdue at the rate of 0.05% per day;

Or exercise both such remedies, for the period until the invoice is paid.

## **7. DELIVERY**

(1) When the Company is required to deliver goods, the Company shall have the sole discretion as the mode of transport to be adopted.

(2) Delivery of Goods by the Company does not include the provision of labour and equipment for unloading, which the Customer shall be liable to provide, at the Customer's own request.

(3) When the Company is required to deliver goods, the Company's liability for so doing shall be limited to delivering them as near to the place where the goods are required as the carrier, in its sole discretion, may think fit. If, in any particular case, the Company or the Carrier agree to relax this condition, the relaxation shall be deemed to have been given in consideration of an indemnity from the Customer against all losses, costs and expenses which the Company and the carrier may incur or pay as a result of such relaxation.

(4) Goods held by the Company pending delivery instructions may be subject to a storage charge.

(5) The Company may deliver goods by instalments.

## **8. SCHEDULED REQUIREMENTS**

If the contract entitles the Customer to provide schedules of requirements of goods for delivery from time to time:

(a) the Customer shall, at any time, be committed:

(i) to take goods for which delivery has been requested within the immediately ensuing three calendar months and, subjected thereto.

(ii) to reimburse the Company the cost of all purchases made with a view to meeting the Customer's expected requirements, whether confirmed or not, during the immediately ensuing six calendar months.

(b) the tolerance as to the quantity of goods to be supplied and paid for set out in Condition 3 shall apply to each delivery.

## **9. NON-DELIVERY AND DAMAGE IN TRANSIT**

Claims for non-delivery, shortage in delivery and damage in transit will be entertained only if and to the extent that:

(a) the Customer has observed whichever of the following procedures is appropriate: Non-delivery - to be notified in writing to both the Company and the carrier within 14 days of the date of the Company's advice of despatch;

Short delivery and damage in transit - to be notified in writing both to the Company and the carrier within 3 days of receipt of the goods, followed by a detailed claim to be made against the Company and against the carrier within 14 days of the date of the Company's advice and despatch; and

(b) the Customer has not compromised the Company's position as against any carrier or other third party.

## **10. VARIATION AND CANCELLATION**

The items of a contract may not be varied, nor may the contract be suspended or cancelled without the prior consent in writing of the Company, which may be given on terms.

## **11. TIME OF PERFORMANCE**

(1) No provision or stipulation as to the time within which the Company shall perform its obligations under a contract shall be, or deemed to be, of the essence of the contract.

(2) The Company shall not be liable to the Customer if, and to the extent that the Company's performance of its contractual obligations is delayed by circumstances outside the Company's control which shall be deemed to include, but shall not be limited to, fire accident, industrial disputes, shortages of material and power failure on the part of the Company's suppliers.

(3) If the Company's performance of its contractual obligations is delayed by any such circumstances as are mentioned in (2) above:

(a) the Company shall be allowed an amount of additional time in which to complete the contract corresponding to the period of the delay;

(b) as and when the period of delay amount in the aggregate to six calendar months or more, with the Company or the Customer may by notice in writing to the other elect to determine the contract and thereupon the contract price shall be adjusted to such sum as is fair and reasonable to enable the Company to recover its costs in relation to the contract and a margin for profit thereon.

## **12. WARRANTY**

(1) During a period of six calendar months from the date of delivery of the goods the Company will, at its option, repair, or replace at the point of sale, goods which are shown to be defective by reason of faulty workmanship and/or materials, provided that the defect has been notified to the Company within a period of 28 days after it has become apparent.

(2) Goods replaced under the terms of the Company's warranty shall thereby and thereupon become the property of the Company, and shall be held by the Customer to the order of the Company.

(3) The Company's express warranty set out above is given in lieu of and excludes all other warranties, guarantees and assurances, whether express or implied, statutory or otherwise.

## **13. CONSEQUENTIAL LOSS**

Except where negligence on the part of the Company is shown to have resulted in the death of, or bodily injury to, any person, the Company shall not be liable for consequential loss suffered by the Customer as a result of the Customer's having entered into a contract and the Company's price levels are set accordingly.

## **14. DESCRIPTIVE MATTER**

(1) Descriptive matter contained in catalogues, brochures and any other publication or display is believed correct and up-to-date, but is not warranted so, unless specifically confirmed in writing by the Company.

(2) Colour indications, whether given by means of the provision of samples or derived from colour charts or descriptions, are necessarily approximate, by reason of inevitable variations in the processes of manufacture and reproduction.

## **15. PASSING OF PROPERTY AND RISK**

(1) The risk of goods supplied by the Company shall pass to the customer on delivery of the goods to or to the order of the Customer in accordance with the terms of the contract.

(2) Whether or not the risk in goods sold shall have passed to the Customer, the property in goods sold shall be and remain in the Company until the Company has received payment in full for them, together with payment in full for any other goods supplied by the Company to the Customer the price of which is overdue for payment. Pending receipt by the Company for such payments, the Customer shall hold the goods for the Company as fiduciary bailee.

(3) When payment of goods is overdue or the Customer suffers distress or execution to be levied against his or its effects, makes an arrangement or composition with creditors or, being a corporate body, enters into liquidation (otherwise than for the purpose of amalgamation or reconstruction where the corporate body, as amalgamated or reconstructed, accepts in full the Customer's liability to pay for the goods), or has a receiver appointed for the whole or any part of its undertaking or being an individual, has a receiving order in bankruptcy made against him, then:

- (a) if the Customer remains in possession of the goods, whether or not the Customer has sold them, the Company shall be entitled to recover the goods from the Customer, or
- (b) if the Customer has parted with possession of the goods by way of sale, whether or not the goods have been mixed with or incorporated into other goods, the Customer, having sold them as fiduciary bailee, shall hold in trust for the Company so much of the proceeds of the sale of the goods as represents the Customer's liability to the Company in respect of them.

#### **16. FITNESS FOR PURPOSE**

Except where goods are supplied on the express advice of the Company, given in writing, that they are suitable for any particular purpose, it shall not be a term of contract that goods are sold as fit for any particular purpose, and this notwithstanding that the Company may have, or be deemed to have, knowledge of the purpose for which the goods are required.

#### **17. MEASUREMENTS AND QUANTITIES**

- (1) Measurements, dimensions, quantities, finish and quality are expressed, in relation to goods the subject of a contract, in accordance with the usage of the relevant trade.
- (2) Where the Company supplies goods and/or services to measurements or in quantities specified by the Customer and which the Company has not verified, the Company shall have no liability if and to the extent that such measurement or quantities prove to be correct.

#### **18. TOOLING**

- (1) Tooling provided by the Company for use by the Company is performing the contract shall remain the property of the Company, notwithstanding that the price for it may be included in the contract price.
- (2) The Company's liability in respect of the storage and maintenance of tooling, whether the property of the Company or deposited or left with the Company for safekeeping, shall be solely to retain the same in good condition for a period of two years from the date of the last contract with the Customer in the course of which tooling was employed.

#### **19. THIRD PARTY RIGHTS**

- (1) The Company does not warrant, nor shall it be implied, that goods and designs sold or employed by the Company do not infringe the rights of any third party.
- (2) Where information, instruction or guidance received from the Customer is the direct or indirect cause of any assertion by, or on behalf of a third party that the Company is in breach of any right of that party, the Customer shall be deemed to have agreed to indemnify the Company against all costs and expenses incurred by the Company as a result of such assertion.

#### **20. CUSTOMER'S INSOLVENCY**

Except where payment for goods to be supplied has been made or secured in advance of delivery, the Company shall be entitled to withdraw from a contract if and when the Customer suffers distress or execution to be levied against his or its goods or effects makes an arrangement or composition with creditors, enters into liquidation (otherwise than for the purpose of amalgamation or reconstruction), has a receiver appointed for the whole or any part of its undertaking, or if a receiving order in bankruptcy is made against him. When the Company elects to withdraw from a contract in any such circumstances, the Company shall thenceforth cease to have any liability to the Customer thereunder but shall remain entitled to claim for the Customer its costs in relation to the contract and a margin for profit thereon.

#### **21. MISCELLANEOUS**

- (1) The Customer may not assign its rights or liabilities under contract without the prior consent in writing of the Company.
- (2) Failure by the Company to enforce a term of contract as soon as it may be enforced shall not prevent the subsequent enforcement of that or any other term of the contract.
- (3) The construction, validity and performance of a contract shall be governed by the laws of England.
- (4) The English Courts shall have exclusive jurisdiction in any dispute or difference arising between the Company and the Customer in relation to a contract.