

Wyastone Estate Limited Standard Terms and Conditions of Trading

1. DEFINITIONS

1.1 In these terms and conditions the following terms shall have the following meaning unless the context otherwise requires:-

1.1.1 "the seller" means Wyastone Estates Limited;

1.1.2 "the Buyer" means any person, firm or company placing an order with the Seller;

1.1.3 "the Goods" means any goods articles or things supplied by the Seller to the Buyer.

2. DISPUTES

2.1 All disputes arising out of or in connection with this contract shall be governed by English Law.

3. PRICE

3.1 The price charged for the Goods will be that ruling on the date of despatch and will not include Value Added Tax or other Government duty or tax as applicable on such date of despatch. The Seller reserves the right to alter its price list at any time without notice. When invoicing the Seller will separately identify Value Added Tax on the invoice.

4. PAYMENT

4.1 The Seller's invoices are payable strictly net in sterling by the end of the month following the month of invoice. In the event of non payment by the due date the Seller reserves the right to charge interest on overdue balances at the rate of 2% per month (accruing from day to day) together with costs of recovery including legal fees and disbursements.

5. DELIVERY AND QUANTITY

5.1 The Seller shall have the right to cancel or delay delivery if it is prevented from or delayed in manufacturing or delivery by normal route or means of delivery the Goods through any circumstances beyond its control.

5.2 The Seller shall have the right to reduce or increase the quantity of Goods in any one consignment to fulfil an order within a plus or minus range of 10%.

6. SELLER'S WARRANTIES

6.1 The Goods are warranted to accord with the usual specification under the licence system applicable to the Goods.

6.2 All other warranties or conditions as to quality, description or fitness for purpose (express or implied by statute, trade, custom, trade practice, licence or otherwise) are expressly excluded in so far as is reasonable.

6.3 The buyer shall examine a reasonable sample of the Goods on delivery and shall on discovering any defect give immediate written notice to the Seller to enable the complaint to be investigated before the remainder of the consignment is used or returned. No liability shall attach to the Seller hereunder unless and until this procedure has been carried out.

7. SELLER'S LIABILITY

7.1 The Seller's total liability for any claim or claims by the Buyer arising from any one act or default of the Seller (whether arising from the Seller's negligence or otherwise) shall not exceed the price of the Goods.

7.2 The Seller shall not be liable for any consequential or indirect loss suffered by the buyer whether this loss arises from a breach of duty in contract or for and in any other way (including loss arising from the Seller's negligence). Non exhaustive illustrations of consequential or indirect loss would be:

- (a) Loss of Profits
- (b) Loss of Contract
- (c) Damage to property of the Buyer or anyone else, and
- (d) Personal injury to the Buyer or anyone else (but only in so far as such injury is not caused by the Seller's negligence).

8. TITLE AND RISK

8.1 Risk in the Goods shall pass to the Buyer when the Goods are delivered to, or collected by the Buyer or its agent.

8.2 Notwithstanding risk in the Goods passing in accordance with Clause 8.1 hereof title in the goods shall not pass to the Buyer until whichever shall be the first to occur of the following:

8.2.1 Payment being received by the Seller for the Goods and no other amounts then being outstanding from the Buyer to the Seller in respect of other goods supplied by the Seller and;

8.2.2 The Buyer selling the Goods in which case title to the Goods shall be deemed to have passed to the Buyer immediately prior to delivery of the Goods to the Buyer's customers.

8.3. Before title is passed to the Buyer under the terms of Clause 8.2 hereof and without prejudice to any of its other rights the Seller shall have the right to recover or resell the Goods or any of them and may through its servants or agents enter upon any premises where the Goods are reasonably believed to be sorted for that purpose.

8.4 Until payment due under all contracts between the Buyer and the Seller has been made in full;

8.4.1 The Buyer shall hold the Goods upon trust for the Seller;

8.4.2 In the event of the sale or hire of the Goods by the Buyer he shall hold the proceeds of such sale or hire on trust for the Seller;

8.4.3 The Seller shall be entitled to trace all such proceeds of sale or hire charges received by the Buyer through an Bank or other account maintained by the Buyer;

8.4.4 In the event of the sale or hire of the Goods by the Buyer in the ordinary course of its business the Buyer shall assign its rights to recover the selling price or hire charges from the third parties concerned to the Seller if required to do so in writing by the Seller.

8.5 As the insurable risk in the Goods shall pass to the Buyer as soon as the Goods are delivered to him or to his order and pending disposal the Buyer shall keep the Goods insured in the amount of the price at which the Goods were sold to the Buyer against all insurable risks.

8.6 If the goods are destroyed by an insured risk prior to the same being paid for by the Buyer, the Buyer shall receive the proceeds of any such insurance as Trustee for the Seller.

9. COPYRIGHT AND BUYER'S WARRANTY

9.1 The Buyer warrants that it is the owner of the copyright in the subject matter of the Goods and if this is not the case it has been granted the necessary licence to procure the manufacture and sale of the copyright in the subject matter of the Goods and such manufacture and sale by the Seller will not infringe the rights of any third parties.

9.2 On request by the Seller the Buyer will produce proof of ownership of the copyright in the subject matter of the Goods or proof of licence of such copyright and/or the necessary licence granted by the Mechanical Copyright Protection Society or other such relevant body and pending such production the Seller reserves the right to cease manufacture of the Goods.

9.3 The Buyer hereby fully and effectually indemnifies the Seller against any and all claims against it by any third party in respect of the use of copyright in the subject matter of the Goods.

10. GENERAL

10.1 Each of these terms and conditions are to be treated as separate and independent.

10.2 If any Court finds that any of these terms and conditions fails under the requirements of reasonableness under the Unfair Contract Terms Act 1977 the Seller nevertheless excludes the relevant liability to the extent that the court finds reasonable.

10.3 These terms and conditions shall have the precedence over any conditions appearing on the Buyer's Order Form or other documents emanating from the Buyer any such conditions of the Buyer shall have not effect whatsoever unless expressly accepted in writing by the Seller.

10.4 The headings in these terms and conditions are for convenience only and not intended to have any legal affect.