

## Standard Conditions of Sale

IN THESE conditions "the seller" means Lankem Limited, "the buyer" means the person, firm or company purchasing the Goods. "The Goods" means the goods or materials which shall be the subject of the contract between the Seller and the Buyer. "The Price" means the price specified in the Seller's Quotation, Acknowledgement or otherwise communicated to the Buyer and agreed.

**1. Acceptance of Order.** All orders are accepted by the Seller subject to these Conditions of Sale unless otherwise varied by agreement in writing. Contracts for delivery by instalments shall be deemed to be indivisible.

**2. The Price**

- (i) The Seller may at any time before delivery increase the price of the undelivered balance of the Goods by notice in writing to the Buyer. In such event the Buyer may within seven days of receipt of such notice by notice in writing cancel the order so far as the undelivered balance of the Goods is concerned.
- (ii) Unless otherwise stated on acceptance, the price of the Goods shall include the Seller's costs of standard packaging, normal insurance and delivery of goods to any one address specified by the Buyer to and agreed by the Seller prior to delivery.
- (iii) The price is also based on the exchange rates, duties, taxes, freight-, storage- and insurance charges applicable at the time of the formation of the Sales Agreement. In case of any change in the applicable rates, duties, taxes or charges after the date of formation of the sales agreement but prior to the agreed date of delivery, Seller shall have the right to adjust the price accordingly

**3. Payment**

- (i) Unless otherwise stated on the Seller's invoice or otherwise agreed in writing, payment for the Goods shall be made not later than twenty days after the end of the month of invoicing but so that the Seller may at any time on or after acceptance by notice in writing to the Buyer vary the terms of payment by demanding immediate payment or (at the Seller's option) adequate security for sums which will be due hereunder.
- (ii) Time of payment shall be of the essence and failure by the buyer to pay the Price of any instalment thereof in due time shall entitle the Seller to treat such failure as a repudiation of the whole contract by the Buyer and to require the Buyer to make immediate payment of all monies due or to become due and to recover from the Buyer damages for such breach of contract and/or (at the Seller's option) to charge interest at either eight per centum per annum or two per centum per annum above the Base Rate of Barclays Bank plc, whichever shall be the greater, from the due date until payment.

**4. Delivery** Unless otherwise agreed in writing between the Seller and the Buyer the following provisions shall apply:

- (i) Delivery of Goods shall take place when the Goods shall be delivered at the address specified on the Sellers quotation, Acknowledgement or other documentation.
- (ii) The delivery date or dates specified on the Sellers acceptance of order are estimates only. The Seller shall not be liable for failure to deliver by such date or dates for any damage or loss arising directly or indirectly out of delay in delivery; nor shall the Buyer be entitled to refuse to accept the goods because of late delivery.
- (iii) The risk of any loss or damage to or deterioration of the Goods shall be borne by the Buyer from the time delivery has taken place as in (i) above.
- (iv) In respect of Sea Transit the Seller shall not be required to give the Buyer the notice relating to insurance of the Goods referred to in Section 32(3) of the Sale of Goods Act 1893.

**5. Property.** Notwithstanding delivery and the passing of risk and solely for the purposes of securing payment of all monies due or to become due to the Seller by the Buyer on any account in the event of the Buyer entering into liquidation or having a winding-up order made against it or a receiver or receiver and manager being appointed of its assets or income or any part thereof or in the event of the Buyer being an individual or individuals he or either of them committing any act of bankruptcy or having any bankruptcy petition presented against him or either of them:

- (i) The property in the Goods shall remain in the Seller until payment in full has been made to the Seller by the Buyer for the Goods and all other sums due to the Seller at the date of delivery of the goods.
- (ii) Where full payment has not been made to the Seller and the Buyer uses the Goods with other products in his manufacturing process or incorporates the Goods with other products the property in the Goods shall be retained by the Seller in so far as such Goods are identifiable.
- (iii) Until such payment is made the Buyer shall hold all Goods and materials the property in which is vested in the Seller on a fiduciary basis only and in any of the events specified above the Buyer shall store such Goods and materials so as to be clearly identifiable as the property of the Seller

**6. Lien** The Seller shall in respect of all unpaid debts due from the Buyer under the same or any other contract have a general Lien on all Goods and property of the Buyer in its possession (although such Goods or some of them may have been paid for) and shall after the expiration of fourteen days written notice to the Buyer be entitled to dispose of such goods and property as it deems fit, and apply the proceeds towards such debts.

**7. Shortages and Damage and/or Loss in Transit**

- (i) Unless otherwise agreed in writing between the Buyer and Seller the Seller may deliver against any order an excess and/or deficiency up to ten per cent of weight or volume ordered without any liability whatsoever to the Buyer save that the price shall be adjusted accordingly.
- (ii) The Buyer shall inspect the Goods immediately upon delivery and shall within three days of such delivery (time being of the essence) give notice in writing to the Seller and the carrier of all claims on account of damage to or total or partial loss of goods in transit. Claims for non-delivery must be submitted in writing to the Seller within fourteen

days after notification of despatch. Quality claims must be made in writing immediately after the buyer learns of the defect and in any event not later than sixty days after the Buyer's receipt of the Goods. Any claim not made in writing and received by the Seller with the foresaid time limits shall be deemed waived.

(iii) If the Seller fails to make delivery or makes defective delivery of any one instalment such failure or defective delivery shall not vitiate the contract as regards other instalments.

(iv) The right of the Buyer to set off the value of any shortage, defective Goods or Goods not otherwise conforming to contract shall be restricted to the specific invoice of the Goods in question and shall not apply to previous or future accounts.

**8. Warranty and Limitation of Liability.** No warranty is given and no representation is made by Seller, whether express or implied as the usefulness, sufficiency, merchantability or fitness for any purpose whatsoever of the goods supplied, unless explicitly given respectively made in writing. The correctness of information provided by Seller regarding the quality, composition or possible applications of the goods is warranted only if such warranty is explicitly stated in the Sales Agreement. Sellers liability shall not exceed the net sales price of the goods concerned. In no event shall Seller's liability include indirect or consequential damages.

**9. Force Majeure.** Deliveries may be partially or totally suspended by either party during any period in which it is prevented from manufacturing, delivering or taking delivery of the Goods through any circumstances outside its control. If, because of such circumstances, the Seller is unable to supply to total requirement of the Goods the Seller may allocate its available supply (after satisfaction of its own requirements) among all of its customers, including those not under contract, as the Seller thinks fit. Deliveries so suspended shall be cancelled without liability, but the contract between the parties shall otherwise remain unaffected.

**10. Indemnity.** The buyer shall indemnify the Seller in respect of all damage or injury occurring to any person, firm, company or property and against all action, suits, claims and demands, charges or expenses in connection therewith for which the Seller may become liable in respect of the Goods sold under the contract in the event that the damage or injury shall have been occasioned otherwise than by the negligence of the Seller.

**11. Default.** The Seller reserves the right (without prejudice to its other rights and remedies) either to terminate the contract between the parties or to suspend further deliveries under it or require payment in advance in the event that the Buyer fails to pay for any one delivery when the same becomes due or the Buyer's financial responsibility becomes unsatisfactory to the Seller or if the Buyer, being a company, goes into liquidation or has a receiver appointed or not being a Company has a receiving order made against him or enters into any arrangement or composition with creditors.

**12. Duty.** All imports duties V.A.T. and other imports will be for the Buyer's account.

**13. Patents and Trade Marks.** No representation, warranty or indemnity is given by the Seller that the Goods do not infringe any letters patent, trade marks, registered designs or other industrial rights.

**14. Assignability.** The contract of which these conditions forms part is personal to the Buyer who shall not assign the benefit thereof without the Seller's written consent.

**15. Proper Law.** These Conditions and the Contract between the parties shall be construed and applied in accordance with the law of England and the English Courts shall have sole jurisdiction in any dispute relating thereto.



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