

# SOUTHERN SALES & SERVICES

## TERMS AND CONDITIONS OF SALE

### THE GOODS

- (A) ALL ILLUSTRATIONS AND DESCRIPTIONS CONTAINED IN THE SELLER'S CATALOGUES, PRICE LISTS AND ADVERTISEMENTS OR OTHERWISE COMMUNICATED TO THE BUYER ARE INTENDED TO PRESENT A GENERAL IDEA OF THE GOODS DESCRIBED AND SHALL NOT FORM ANY PART OF THIS CONTRACT.
- (B) IF A SAMPLE OF THE GOODS HAS BEEN EXHIBITED TO AND INSPECTED BY THE BUYER, IT IS HEREBY AGREED THAT SUCH SAMPLE WAS SO EXHIBITED AND INSPECTED SOLELY TO ENABLE THE BUYER TO JUDGE FOR ITSELF THE QUALITY OF THE GOODS AND NOT SO AS TO CONSTITUTE A SALE BY SAMPLE. THE BUYER SHALL TAKE THE GOODS AT ITS OWN RISK AS TO THEIR CORRESPONDING WITH THE SAMPLE OR AS TO THEIR QUALITY CONDITION OR SUFFICIENCY FOR ANY PURPOSE.
- (C) THE GOODS WILL REMAIN THE PROPERTY OF SOUTHERN SALES & SERVICES UNTIL FULL PAYMENT IS MADE.

### PRICES

PRICES QUOTED ARE EXCLUSIVE OF VAT AT CURRENT RATE. ALL PRICES ARE SUBJECT TO VARIATION WITHOUT NOTICE, TO COVER ANY INCREASE IN COSTS INCURRED OR FITTING OF THE GOODS.

### PAYMENT

- (A) THE BUYER WILL BE INVOICED BY THE SELLER IN RESPECT OF THE GOODS AND THE SUMS SHOWN ON AN INVOICE WILL BE DUE IMMEDIATELY UPON PRESENTATION OF THE INVOICE - IF NO ACCOUNT IS IN OPERATION.
- (B) FOR ACCOUNT CUSTOMERS, ALL INVOICES MUST BE SETTLED 30 DAYS FROM DATE OF INVOICE.
- (C) TIME OF PAYMENT IS OF THE ESSENCE OF THE CONTRACT. IF THE INVOICE IS NOT SETTLED BY THE DUE DATE FOR PAYMENT, THE SELLER RESERVES THE RIGHT TO CHARGE INTEREST ON THE OUTSTANDING BALANCE AT THE RATE OF 2% MONTHLY FROM THE DATE PAYMENT IS DUE , UNTIL RECEIPT OF PAYMENT BY THE SELLER OR ANY PART THEREOF.
- (D) ANY GOODS CORRECTLY ORDERED BUT NOT REQUIRED, SHALL BE RETURNED BY CUSTOMER AT THEIR EXPENSE. A HANDLING CHARGE OF 10% PLUS OUTGOING DELIVERY IS TO BE MET.

### DELIVERY

(A) ANY DELIVERY DATES GIVEN ARE ESTIMATES ONLY AND THE TIME OF DELIVERY SHALL NOT BE OF THE ESSENCE OF THE CONTRACT. IN NO CIRCUMSTANCES SHALL THE SELLER BE LIABLE TO COMPENSATE THE BUYER IN DAMAGES OR OTHERWISE FOR NON-DELIVERY OR LATE DELIVERY OF THE GOODS OR ANY OF THEM FOR WHATEVER REASON OR FOR ANY LOSS CONSEQUENTIAL OR OTHERWISE ARISING THEREFROM.

### DELIVERY (CONT'D)

- (B) IF THE SELLER IS UNABLE TO DELIVER DUE TO ACTS OR OMISSIONS OF THIRD PARTIES OR BY REASON OF INDUSTRIAL DISPUTE, THE TIME FOR DELIVERY SHALL BE EXTENDED UNTIL THE OPERATION OF THE CAUSE PREVENTING OR HINDERING DELIVERY HAS CEASED.
- (C) SHOULD THE SELLER BE PREVENTED FROM DELIVERING PART OF THE GOODS FOR REASONS COVERED BY THE PRECEDING SUB-CLAUSE, THE SELLER SHALL DELIVER AND THE BUYER SHALL TAKE AND PAY FOR SUCH GOODS AS THE SELLER SHALL BE ABLE TO DELIVER IN ACCORDANCE WITH THE CONTRACT.
- (D) THE SELLER SHALL BE ENTITLED TO DELIVER THE GOODS IN ONE OR MORE PARTS UNLESS OTHERWISE EXPRESSLY AGREED.
- (E) IF DELIVERY OF ANY ITEM COMPRISED IN THE GOODS HAS NOT BEEN MADE WITHIN A REASONABLE TIME OF THE ESTIMATED DELIVERY DATE, THE BUYER SHALL BE ENTITLED TO CANCEL ITS ORDER IN RESPECT OF THAT ITEM, BUT THE SELLER SHALL IN NO CIRCUMSTANCES BE LIABLE TO COMPENSATE THE BUYER IN DAMAGES OR OTHERWISE FOR LATE DELIVERY OF NON-DELIVERY OF THE GOODS OR ANY OF THEM FOR WHATEVER REASON OR FOR ANY LOSS CONSEQUENTIAL OR OTHERWISE ARISING THEREFROM.
- (F) THE SELLER SHALL NOT BE LIABLE FOR ANY LOSS OF ANY KIND TO THE BUYER ARISING FROM ANY DAMAGE TO THE GOODS HOWEVER CAUSED ARISING AFTER THE RISK HAS PASSED TO THE BUYER, NOR SHALL ANY LIABILITY OF THE BUYER TO THE SELLER BE DIMINISHED OR EXTINGUISHED BY REASON OF SUCH LOSS.
- (G) THE SELLER MAY AT ITS OPTION CANCEL OR SUSPEND (OR SUSPEND AND LATER CANCEL) ALL FURTHER DELIVERIES UNDER THE CONTRACT IF THE BUYER FAILS TO MAKE ANY PAYMENT DUE HEREUNDER OR UNDER ANY OTHER CONTRACT BETWEEN THE SELLER AND THE BUYER, OR IF THE BUYER, BEING AN INDIVIDUAL, SHALL DIE OR BECOME BANKRUPT, OR, BEING A COMPANY SHALL ENTER INTO LIQUIDATION OR HAVE A RECEIVER APPOINTED OF ITS UNDERTAKING PROPERTY OR ASSETS OR ANY PART THEREOF, OR SHALL ENTER OR OFFER TO ENTER INTO ANY AGREEMENT OR COMPOSITION WITH HIS OR ITS CREDITORS, OR IF EVENTS SIMILAR TO THE FOREGOING SHALL OCCUR UNDER THE LAWS OF ANY JURISDICTION IN WHICH THE BUYER IS INCORPORATED, RESIDENT OR CARRIES ON BUSINESS.

#### PASSING OF RISK AND TITLE

RISK OR LOSS OR DAMAGE TO THE GOODS SHALL PASS TO THE CUSTOMER AT THE TIME OF DELIVERY OF THE GOODS.

#### INSPECTION

- (A) THE BUYER SHALL INSPECT THE GOODS IMMEDIATELY ON DELIVERY AND SHALL WITHIN TWO DAYS OF DELIVERY GIVE WRITTEN NOTICE TO THE SELLER OF ANY DAMAGE TO OR DEFECT IN MATERIAL OR WORKMANSHIP IN THE GOODS OR THAT THE GOODS DELIVERED ARE NOT AS STATED ON THE DELIVERY NOTE. IF THE BUYER FAILS TO GIVE SUCH NOTICE THE BUYER SHALL BE DEEMED TO HAVE ACCEPTED THE GOODS. IF THE BUYER ESTABLISHES TO THE SELLER'S REASONABLE SATISFACTION THAT THE GOODS ARE SO DEFECTIVE, THE BUYER'S SOLE REMEDY IN RESPECT OF NON-ACCORDANCE OR DEFECTS SHALL BE LIMITED AS THE SELLER MAY ELECT TO THE REPLACEMENT OF THE GOODS OR REFUND OF THE PURCHASE PRICE AGAINST RETURN OF THE GOODS. IN THE CASE OF NON-

#### INSPECTION (CONT'D)

DELIVERY OF THE GOODS, THE BUYER SHALL INFORM THE SELLER IN WRITING WITHIN SEVEN DAYS FROM THE DATE OF THE INVOICE FOR SUCH GOODS.

- (B) IN THE EVENT OF THE BUYER ACQUIRING THE GOODS OR PART OF THE GOODS FROM OR THROUGH THE SELLER WHICH THE SELLER HAS ITSELF ACQUIRED IN SUBSTANTIALLY THE SAME FORM, OR ACTUALLY IN THE SAME FORM FROM A MANUFACTURER (OR HIS OR ITS AGENT) WHETHER SUCH GOODS ARE USED BY THE SELLER AS A COMPONENT PART OF A LARGER ITEM ORDERED BY THE BUYER OR NOT, THE LIABILITY OF THE SELLER IN RESPECT OF THE GOODS CONCERNED SHALL NOT EXCEED THE LIABILITY OF THE MANUFACTURER (OR HIS OR ITS AGENT) TO THE SELLER PROVIDED THAT ANY SUCH LIABILITY BY THE SELLER TO THE BUYER SHALL NOT EXCEED THE PURCHASE PRICE OF THE GOODS CONCERNED AND THAT SUCH GOODS ARE RETURNED TO THE SELLER AND IN ANY EVENT THE SELLER MAY ELECT TO REPLACE THE GOODS CONCERNED.
- (C) THESE TERMS SET OUT THE SELLER'S ENTIRE LIABILITY IN RESPECT OF THE GOODS, AND THE SELLER'S LIABILITY HEREUNDER SHALL BE IN LIEU AND TO THE EXCLUSION OF ALL OTHER WARRANTIES, CONDITIONS TERMS AND LIABILITIES EXPRESS OR IMPLIED STATUTORY (NOTWITHSTANDING ALL LIABILITY IN RESPECT OF WHICH, HOWSOEVER ARISING, IS EXPRESSLY EXCLUDED) EXCEPT ANY IMPLIED BY LAW OR STATUTE AND WHICH BY LAW OR STATUTE CANNOT BE EXCLUDED. SAVE AS PROVIDED IN THESE TERMS THE SELLER SHALL NOT BE UNDER ANY LIABILITY, WHETHER IN CONTRACT, TORT OR OTHERWISE, IN RESPECT OF DEFECTS IN THE GOODS OF FAILURE TO CORRESPOND TO SPECIFICATION OR SAMPLE FOR ANY INJURY, DAMAGE OR LOSS RESULTING FROM SUCH DEFECTS OR FROM ANY WORK DONE IN CONNECTION THEREWITH.

#### INDEMNITY

THE BUYER SHALL INDEMNIFY THE SELLER IN RESPECT OF ALL DAMAGE, INJURY OR LOSS OCCURRING TO ANY PERSON OR PROPERTY AND AGAINST ALL ACTIONS, CLAIMS, CHARGES OR EXPENSES IN CONNECTION THEREWITH ARISING FROM THE CONDITION OR USE OF THE GOODS IN THE EVENT AND TO THE EXTENT THAT THE DAMAGE INJURY OR LOSS SHALL HAVE BEEN OCCASIONED PARTLY OR WHOLLY BY THE CARELESSNESS OF THE BUYER OR HIS SERVANTS OR AGENTS OR BY ANY BREACH BY THE BUYER OF ITS OBLIGATIONS TO THE SELLER.

#### ASSIGNMENT

THE BUYER SHALL NOT ASSIGN ANY BENEFIT UNDER THE CONTRACT WITHOUT THE SELLER'S WRITTEN CONSENT, WHICH MAY IF GIVEN BE ON SUCH TERMS AS THE SELLER THINKS FIT.

#### NOTICES

ANY NOTICE GIVEN UNDER OR PURSUANT TO THE CONTRACT MAY BE SENT BY ANY MEANS RESULTING IN THE RECEIPT OF A WRITTEN COMMUNICATION IN PERMANENT FORM AND, IF SO SENT TO THE ADDRESS OF A PARTY SHOWN ON THE DELIVERY NOTE OR SUCH OTHER ADDRESS AS A PARTY MAY HAVE GIVEN FOR THIS PURPOSE, SHALL BE DEEMED RECEIVED ON THE DAY WHEN IN THE ORDINARY COURSE OF THE MEANS OF DESPATCH IT WOULD FIRST BE RECEIVED BY THE ADDRESSEE IN NORMAL BUSINESS HOURS.

#### PROPER LAW

THE CONTRACT SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH ENGLISH LAW.