



**Beckdale Europe Ltd**

**("THE SELLER")**

**TERMS AND CONDITIONS OF SALE**

**1. THE SELLERS CONDITIONS TO PREVAIL**

These Conditions of Sale shall override any terms or conditions stipulated, incorporated or referred to by the Buyer whether in the order or in any negotiations preceding the formation of the contract.

**2. PRICE**

All orders accepted and quotations made are on the basis that if delivery is to be made in more than six months time after acceptance of order the Seller may at any time before dispatch discuss prices of such goods with the Buyer and if the Buyer and Seller cannot in such cases agree the prices to be charged either party may on one months written notice to the other (sent by prepaid first class letter post to the other) rescind the contract in respect of orders unfulfilled at the date of such rescission and subject thereto such goods (and where appropriate) delivery shall be charged at the prices ruling at the date of despatch and the Buyer shall pay the then ruling charges. Where appropriate Value Added Tax at the current rate shall be payable by the Buyer in addition.

**3. PAYMENT**

Payment is due strictly cash on delivery unless credit has been arranged then payment is 30 days from date of invoice. Interest will be charged, currently at 3% per month or part thereof, on the balance outstanding as from the date of invoice, in respect of all monies, which remain outstanding after one calendar month.

**4. TIME LIMIT FOR DELIVERY**

Time shall not be of the essence as far as delivery of goods by the Seller is concerned and by agreeing to deliver goods by a specific date the Seller shall not be deemed to have waived the benefit of this condition

**5. SPECIFICATION AND DRAWING SUITABILITY**

(a) The buyer shall be responsible for the contents of all plans particulars and other information supplied by it to the Seller and for any discrepancies, inconsistencies errors or omissions therein.

(b) The suitability of the goods is the Buyers responsibility and unless specifically stated in writing by the Seller no warranty or condition is given or implied concerning fitness for the purpose for which the goods are to be used.



## 6. PRINTING AND DESIGN

In the case of printed goods the Seller is not to be responsible or liable for any errors in proofs which have been passed by the Buyer and any charges incurred by the Seller in the preparation of special tools, sketches, printing blocks, etc, shall be charged extra. The Buyers property stored or used by the Seller shall be at the Buyers risk. The Buyer warrants that the use of any trade mark copyright material or other designs supplied by the Buyer or utilised at the Buyers request will not be an infringement of the trade mark or copyright or rights of any third party and in the event of infringement will indemnify the seller against any claim arising therefrom. The Buyer shall indemnify the Seller in respect of third party rights where design is supplied by the seller. The Seller reserves the right to dispose of any artwork and printing plates if no orders relating there to are placed with the Seller within the preceding four years.

## 7. TOLERANCE

Although the Seller shall make reasonable efforts to supply the number and kind of goods contracted for, nevertheless the Seller shall be entitled to a tolerance of 10% in the number and size of the goods, and gauge of material agreed. In the event of the Seller supplying more goods than agreed the Buyer shall pay extra for such excess on a pro rata basis and in the event of the Seller supplying fewer goods than agreed the Buyer shall only pay for the quantity supplied, and shall consider the order complete.

## 8. DISPUTES

The Buyer shall within 14 days of delivery of goods inform the Seller in writing of any discrepancies concerning the goods. In default of such notification, the Buyer shall be deemed to have accepted the goods.

## 9. DESPATCHES BY INSTALMENTS

Every despatch of goods made by the Seller shall be deemed to have been made in respect of a contract different from other despatches of goods (notwithstanding that the Seller may have contracted to despatch all goods in one consignment) and so that

- (a) The Buyer shall be liable to pay the Seller for the price attribute to the goods so despatched (notwithstanding that the Seller shall not have fulfilled the remaining part of any contract)
- (b) The Buyer shall not be entitled to cancel the whole or any part of any order or contract and
- (c) The Seller subject as herein provided shall remain liable to the Buyer in respect of other goods yet to be dispatched.

## 10. THE BREACH

- (a) The Buyer will be treated as having repudiated the contract if it: (i) becomes insolvent: or
- (ii) Commits a serious breach or one, which is not remedied within 7 days of being asked to do so.
- (b) The Buyer may be treated as having repudiated the contract if it: (i) Does not make payment when due; or
- (ii) Fails to accept delivery or give delivery instructions



(C) If the Buyer repudiates the contract:

(i) All invoices sent to it must be paid immediately

(ii) The price of all goods not invoiced but delivered by the Seller or manufacturer or ordered for sale to the Buyer

must be paid immediately.

(iii) The Seller will be released from all future obligations under all contracts.

(d) The Buyer may be treated as insolvent if:

(i) It is a company, which has a petition for winding up, or administration presented against it or passes a resolution for winding up

(ii) A receiver of any of its assets is appointed

(iii) It convenes a meeting of its creditors

(iv) It (or any of its partners) becomes bankrupt

(v) It is unable to pay its debts (defined in Ss 123 or 268 insolvency act 1986)

(vi) One of its creditors tries to serve on it a document purporting to be statutory

## 11. OWNERSHIP

(a) The goods remain the Sellers property (even after delivery) until: (i) the Buyer pays all that it may owe the Seller

(ii) The Buyer sells them (at arms length to a customer not connected within itself)

(b) The Buyer may use or sell the goods (but not if it is insolvent or the Seller tells it to return them) but only if the proceeds of the sell are held in trust for the Seller and paid into a separate account which may not be overdrawn for the Seller.

(c) While the goods belong to the Seller:

(i) The Buyer will hold them as the Sellers fiduciary agent and bailie (but may not commit the Seller to any liability under any contract); and

(ii) The Buyer will store them safely and separately from other goods.

(d) When the goods belong to the Buyer but are under the Sellers control then, if the Buyer becomes insolvent or fails to pay the Seller when it should have, the Seller has (in addition to its rights under Ss 38-48 Sale of Goods Act 1979)

(i) A lien on the goods

(ii) A right of stoppage in transit; and

(iii) A right of resale as the Buyers agent

(e) The Seller may sue the Buyer for payment whether or not property in the goods has passed.



## 12. FORCE MAJEURE

(a) The due performance of the contract is subject to cancellation or variation by the Seller as a result of any default whatsoever on the part of the Sellers own suppliers or the inability to secure labour, materials or supplies as a result of any act of God, war, riot or civil disturbance, strike, lockout or any other labour dispute, fire flood, drought or accident, legislation, requisitioning or other act or order by any government department, council or any other duly constituted authority, or any other cause beyond the Sellers control, in such an event, no liability shall attach to the Seller by reason of cancellation or variation of any contract.

(b) Deliveries may be wholly or partially suspended and the time of such suspension to the original contract in the event of stoppage, delay or interruption of work, in the establishment of the Seller during the delivery period as a result of any of the clauses set out in subparagraph (a) or any cause whatsoever beyond the control of the Seller.

## 13. RISK AND DAMAGE IN TRANSIT

(a) From the time of despatch of the goods from the Seller to the Buyer the risk of any loss or damage to or deterioration of the goods from whatever cause shall be borne by the Buyer

(b) If the Seller undertakes delivery of the goods it shall not be liable :-

(i) for any loss, damage, deviation, delay or detention of the goods in the course of transit, or for misdelivery or short delivery unless the Buyer gives to the Seller and to the Carrier within 3 days of receipt of the goods a written notice of the Buyers complaint:

(ii) For non-delivery or non-arrival of the whole of any consignment of the goods or of any separate package unless the Buyer shall give to the Seller and to the Carrier a written notice thereof within 4 days of the date of notification of the despatch of the goods.

## 14. CLAIMS GENERALLY

Under no circumstances shall the Seller be liable for consequential loss or for any claims relating to the condition of goods stored by the Buyer for more than 3 months.