

TERMS AND CONDITIONS OF SALE

GENERAL

1 These Conditions of Sale comprise the exclusive basis on which the Seller offers Products for Sale and in any resulting contract these Conditions of Sale shall take precedence over the Buyer's Conditions of Purchase. No Variation of addition to or deletion from these Conditions of Sale shall be effective unless in writing signed for and on behalf of the Seller.

Where an order for Products is to be delivered in instalments, each instalment shall constitute a separate contract.

Any relaxation or concession that may be granted by the Seller shall not invalidate, impair or compromise these conditions of Sale in whole or in part and shall in no way affect or prejudice the Seller's rights hereunder.

For the purpose of these Conditions of Sale: -

- 'Seller' shall be Tremco Ribbeck Limited
- 'Buyer' shall be any person, firm, company or corporation from whom the order for Products is placed or with whom the Contract is made.
- 'Products' shall be all or any part of the materials supplied by the Seller to the Buyer under the Contract.
- 'Tremco Carrier' shall mean only a Tremco appointed and approved Carrier, whether carriage is paid for by Seller or Buyer.
- 'Contract' shall include not only any individual order or Products but also any long-term contractual agreement relating to the supply of Products.

Any contract shall be personal between the Buyer and the Seller and may not be assigned by either party without the other party's consent. The Seller reserves the right to set off against any amount Seller owes Buyer, any debt due by the Buyer to the Seller or to any associated or subsidiary company of Seller.

ACCEPTANCE OF ORDERS

2. Seller shall not be bound by any order for Products unless the same has been accepted in writing by Seller. Any quotation given by Seller is given without any commitment and may be withdrawn or altered at any time prior to receipt by Buyer of Seller's acceptance of Buyer's order.

WARRANTY

3. The Products are of good quality. Under this warranty Products will be provided to replace any Product proven to be defective when applied in accordance with Seller's written instructions in applications recommended by Seller as suitable for the Product. But all express or implied warranties or conditions, statutory or otherwise as to quality, merchantability or fitness for a particular purpose of the products are hereby expressly excluded. It is an express condition subject to which the Products are sold that Seller's liability is limited to the above, or to the net sales price of the Products, and that Seller accepts no liability whatsoever arising in contract or tort or otherwise for any injury, loss or damage to any person or property caused by or arising out of the use of the Products except insofar as the same is proved to arise out of Seller.

4. Upon request Seller shall endeavour to furnish such technical advice as it has available as regards the use of the Products. Seller accepts no liability whatsoever for loss or damage arising from such advice or assistance or for any results obtained in pursuance of it (such advice being given or such assistance being rendered without charge and without risk to Seller).

5. Buyer shall indemnify Seller against all actions, claims or demands by any third party whether arising in Contract or in tort or otherwise and whether arising directly or indirectly in connection with the use, functioning or state of the Product.

CLAIMS & ACCEPTANCE

6. To qualify for replacement, details of Products alleged to be defective and subject to claim under the warranty must be notified in writing to Seller within two weeks of Delivery. Such Products returned by Buyer without prior agreement by Seller shall not be accepted by Seller. Seller's obligation to replace such Products is conditional on all instructions from Seller concerning storage, application and use having been observed and Buyer acknowledges herewith that he has duly received from Seller such instructions.

7. Buyer shall inspect Products immediately on Delivery and shall, if requested to, sign a receipt by the carrier, give notice in writing on or with the receipt of any matter or thing by reason whereof he alleges that the Products are not in accordance with the Contract and the shall in any event within five days of Delivery give similar notice in writing to Seller and in such notice to Seller state invoice number, date and time of Delivery, date on which the carrier was notified, outward signs of damage, pilferage or the non-conformity with the Contract and details of any Products missing or of alleged damage to Products. If the consignment shall not arrive within ten days after the receipt of the invoice by the Buyer, then the Buyer shall so inform Seller immediately. If the Buyer shall fail to give the aforesaid notices, the Products shall be deemed to be in all respect in accordance with the Contract and the Buyer shall be bound to accept and pay for the same accordingly, but without prejudice to the Buyer's rights under the aforementioned Conditions (3) and (4).

8. Provided that the Buyer shall give notices in accordance with the aforementioned Condition (7), Seller will replace free of charge Products lost or damaged in transit, but shall be under no further or other liability in respect of late Delivery or in respect of other matters of which the Buyer gives such notices.

9. If the Buyer has given notice under the aforementioned Condition (7) but nevertheless uses the Products or deals with them as owner, the Buyer shall be bound to pay the purchase money in full and the Buyer shall have no claim whatsoever vis-à-vis the Seller.

PRICES

10. Products ordered for immediate Delivery shall be charged at the Price stated on the face of the Acknowledgement of Order. Products ordered for a later date shall be charged at the Price shown in the then current Seller's Price List applicable at such date.

11. Prices will be subject, where applicable, to VAT, Excise Duty and any other Government Tax or Duty (hereinafter collectively referred to as "Taxes"). In case Taxes are applicable, Buyer shall pay those Taxes.

12. Except where otherwise agreed to in writing, the Prices will normally include Delivery, but a small Order Delivery Charge will be made on the Products delivered within mainland Great Britain by Seller's own transport division or by Seller's carriers in accordance with the rate shown in the then current Seller's Price List applicable at such date.

13. Seller reserves the right to vary the Prices at any time without notice.

PAYMENT TERMS

14. Seller may require Buyer to pay cash on or before the dispatch of the Products or to provide security satisfactory to Seller. Otherwise payment is due by Buyer without right of set-off or counter claim so as to be received by Seller at its business address not later than the thirtieth day of the month following the month of invoice, unless stipulated otherwise by Seller or agreed otherwise in writing. Any credit granted by Seller may be terminated at any time without notice. Seller reserves the right to charge interest on overdue accounts at the rate of up to four per cent (4%) per annum above the then current base lending rate of HSBC Bank plc, such interest being calculated from the date the payment of the purchase money is due by Buyer until the date said payment is received by Seller.

DELIVERY

15. Seller shall deliver Products in mainland Great Britain to the Buyer at the address as instructed by the Buyer prior to Acknowledgement of Order, or, if no such address, at the last known address of the Buyer. Delivery outside mainland Great Britain or special methods of Delivery requested by the Buyer shall be paid for by the Buyer at cost.

16. Seller will use all reasonable commercial endeavours to deliver the Products by the time stated in Seller's Acknowledgement of Order for the Products but the time of delivery or performance shall not be the essence of any Contract for the Product. Any such times are stated by way of general information only and in the event of failure to despatch or deliver or perform with such time for any cause whatsoever whether within or outside Seller's reasonable control shall not be a breach or repudiation of the relevant Contract and Seller shall not be liable for any loss or damage suffered by Buyer as a result of such delay.

17. Delay in Delivery due to circumstances outside the control of Seller shall not entitle Buyer to cancel any Order or to refuse to accept Delivery. Should Seller be prevented from making Delivery, owing to any cause outside its control, Seller shall be entitled to cancel the Order by notice in writing to the Buyer, without incurring any loss or becoming liable for any loss or damages resulting therefrom.

RETURNS

18. Products correctly despatched by Seller shall not be returned except by agreement in writing.

RISK & OWNERSHIP

19. Risk in the Products shall pass to Buyer when Seller provides the Products to the Tremco Carrier for Delivery to Buyer, or where applicable when Buyer or its nominated carrier collect the Products from Seller's premises.

20. Save where the Products are collected by Buyer or its nominated carrier, Seller will ensure that the Products are insured to their replacement value against loss or damage while in transit with the Tremco Carrier.

21. Ownership of the Products shall not pass to Buyer until Seller has received in full (in cash or cleared funds) all sums due to it in respect of the Products and all other sums which are or which become due to Seller from Buyer under any Contract. Until ownership passes to it, Buyer shall hold, store and maintain the Products (a) on a fiduciary basis as Seller's bailee; (b) in their supplied packaging, separately from all other goods held by Buyer as to be clearly identifiable as Seller's property; and (c) in satisfactory condition and insured for their full price against all risks to the reasonable satisfaction of Seller. On request, Buyer shall produce a copy of the policy of insurance to Seller.

22. Buyer may resell the Products before ownership passes solely on the following conditions: (a) any sale shall be effected in the ordinary course of Buyer's business at full market value; and (b) any such sale shall be a sale of Seller's property on Buyer's own behalf as principal.

23. Buyer's right to possession of the Products shall end immediately if it: (a) makes any arrangement with its creditors or otherwise takes the benefit of any statutory provision for the relief of insolvent debtors, or convenes a meeting of creditors, or enters into liquidation, or has a receiver and/or manager, administrator or administrative receiver appointed, or documents are filed for the appointment of an administrator of Buyer or notice of intention to appoint an administrator is given by any entitled person or a resolution is passed or a petition presented to a court to wind-up Buyer or for the grant of an administration order or any insolvency proceedings are commenced relating to Buyer; (b) suffers or allows any execution to be levied on its property or obtained against it or breaches any of its obligations under any Contract or any other contract with Seller or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or ceases to trade; or (c) encumbers or in any way charges any of the Products.

24. Buyer grants Seller, its agents and employees an irrevocable licence at any time to enter any place where the Products are or may be situated to inspect them, or (as appropriate) to recover them. Seller shall be entitled to suspend deliveries of Products to Buyer under any Contract and/or terminate any such Contract(s) without liability if any of the circumstances in Condition 23 apply.

25. Where Seller is unable to determine whether any Products are products in respect of which Buyer's right to possession has terminated, Buyer shall be deemed to have sold all products of the kind sold by Seller to Buyer in the order in which they were invoiced to Buyer.

26. Seller's (but not Buyer's) rights in Conditions 21-26 shall survive termination of this Contract.

DESCRIPTION & DRAWINGS

27. The descriptions, illustrations and any other material contained in any catalogues, price lists, brochures, leaflets or other descriptive matter represent the general nature of the items described therein but do not form part of any Contract or amount to any representation or warranty. Any specifications, physical properties, drawings, descriptions, weights or dimensions provided by Seller are intended merely as a general guide, and Seller does not accept any liability therefore.

HEALTH & SAFETY

28. Buyer acknowledges having received from Seller technical literature relating to the Products which contains information on toxicological and/or handling hazards.

FORCE MAJEURE

29. Seller shall not be liable for any failure to perform its obligations hereunder in whole or in part if such failure is due to Act of God, war, government regulations, strike, labour dispute, civil commotion, scarcity of raw materials, illness, flood, fire, pestilence or any other cause beyond the reasonable control of Seller.

LAW

30. Any Contract to which these Conditions of Sale apply, shall be construed and take effect in accordance with English Law.