

TERMS AND CONDITIONS OF SALE OF RENNYCO LTD. ("the Seller")

1. SELLER'S CONDITIONS TO PREVAIL

- (1) Unless otherwise agreed in writing by the Seller, these conditions of sale which supersede any earlier sets of Conditions appearing in the Seller's catalogue or elsewhere shall override any terms or conditions stipulated or incorporated or referred to by the Buyer whether in the order or in any negotiations preceding the formation of the contract.
- (2) In the event of the Buyer's conditions containing a clause which is inconsistent with or which purports to exclude the Seller's conditions or which purports to provide that the delivery of any goods or the commencement of any work by the Seller on a contract for the Buyer shall constitute acceptance of the Buyer's conditions such clause or clauses shall be of no effect and the Seller's Conditions of Sale shall prevail.
- (3) Acceptance of Goods from the Seller shall be conclusive evidence before any court or Arbitrator that these terms alone apply to the supply by the Seller of the Goods.
- (4) For the purpose of these terms writing includes telex and facsimile transmissions.
- (5) "Goods" means goods or services (including any instalment of the Goods) which the Seller is to supply in accordance with these Conditions.

2. ACCEPTANCE OF ORDERS

- (1) All quotations are made without engagement and are therefore subject to confirmation in writing by the Seller on receipt of the order from the Buyer.
- (2) Engagements made by the Seller's agents or representatives are only valid when confirmed in writing by the Seller.

3. WARRANTY

- (1) The Seller warrants that the Goods shall at the time of delivery be within the normal limits and tolerance levels of industrial quality. If any Goods do not conform to that warranty, the Seller will, at its option:-
 - (a) replace the Goods found not to conform to the warranty;
 - (b) take such steps as the Seller deems necessary to bring the Goods into a state where they are free from such defects; or
 - (c) take back the Goods found not to conform to the warranty and refund the appropriate part of the purchase price provided that:-
 - (i) the liability of the Seller shall in no event exceed the purchase price of the Goods unless the Seller is liable for death or personal injury arising from negligence on itself, its servants or agents or the Seller is liable under the Consumer Protection Act 1987;
 - (ii) performance of any one of the above options (as limited by sub-clause (i) above) shall constitute an entire discharge of the Seller's liability under this Warranty.
- (2) The Seller shall indemnify the Buyer against all or any awards, losses, damages, costs and expenses suffered or incurred by the Buyer in respect of Product Liability claims arising in relation to Goods supplied by the Seller to the Buyer to the extent only that the Consumer Protection Act 1987 imposes such liability upon the Seller.
- (3) The foregoing Warranty and Indemnity are given conditions upon:-
 - (a) the Buyer giving written notice to the Seller of the alleged defect or any claim alleging defect in the Goods; such notice to be received by the Seller within fourteen days of the time when the Buyer discovers or ought to have discovered the defect or within fourteen days of receiving notice of such claim and in any event (save in the case of negligence or Product Liability claims) within two months of delivery of the Goods;
 - (b) the Buyer affording the Seller a reasonable opportunity to inspect the Goods and if so requested by the Seller, returning the allegedly defective Goods to the Seller's works carriage pre-paid for inspection to take place there;
 - (c) the Buyer making no further use of the Goods that are alleged to be defective after the time at which the Buyer discovers or ought to have discovered that they are defective;
 - (d) the Buyer having paid in full the price of the Goods and any additional charges, costs and expense payable by the Buyer in respect of the Goods;
 - (e) the Goods having, where appropriate, been correctly installed and used;
 - (f) the Buyer not admitting liability or entering into negotiations or proceedings relating to such claim without entering into full consultation with the Seller and giving the Seller notice of all communications made by the Buyer in respect of such claim to the claimant;
 - (g) the defect not being attributable to the design drawing specification or other instruction given to the Seller by the Buyer in respect of the Goods; and
 - (h) the defect not being wholly attributable to the design of the product in which the Goods in question had been comprised.
- (4) The Buyer shall indemnify the Seller against all or any awards, losses, damages, costs and expenses, howsoever arising suffered or incurred by the Seller in the event that the conditions (a) to (h) of sub-clause (3) of this clause are not complied with.
- (5) The Buyer shall be solely responsible for ensuring that all drawings, information and advice and recommendations given to the Seller either directly or indirectly by the Buyer or by the Buyer's agents, servants or advisers are accurate, correct and suitable. Examination or consideration by the Seller of such drawings, information advice or recommendations shall in no way limit the Buyer's responsibility hereunder unless the Seller specifically agrees in writing to accept responsibility.
- (6) The information contained in the Seller's publications is provided for general guidance only and forms no part of the contract unless expressly agreed in writing. The Buyer should obtain specific recommendations and advice from the Seller regarding the uses and attributes of the Seller's products.

4. EXCLUSIONS

- (1) Save as provided in Clause 3 hereof and in Sections 12 to 15 of the State of Goods Act 1979:-
 - (a) All conditions and warranties expressed or implied are hereby expressly excluded.
 - (b) The Seller shall be under no liability for any loss or damage howsoever caused which arises in respect of the Buyer's liability to any third party whatsoever.
 - (c) The Seller shall be under no liability for any loss or damage howsoever caused which arises in respect of indirect or consequential loss or damage.
 - (d) Without prejudice to any other term of these Conditions, the Seller shall be under no liability for any loss or damage of whatsoever kind caused or arising unless the same be due to the willful default of the Seller.
- (2) Without prejudice to the generality of sub-clause (1) hereof all recommendations and advice given by or on behalf of the Seller to the Buyer as to the methods of storing, applying or using the Goods, the purposes to which the Goods may be applied and the suitability of using the Goods in any manufacturing process or in conjunction with any other materials are given without liability on the part of the Seller its servants or agents.
- (3) Notwithstanding the provisions of sub-clause (1) and (2) hereof in the event that the Seller is found liable for any loss or damage that liability shall in no event exceed the purchase price of the Goods or in the case of services, the fees paid for such services.

5. HEALTH AND SAFETY

The Buyer will on or before delivery of the Goods, if so requested by the Seller, enter into a written undertaking to take such steps as may be specified to the Buyer by the Seller and set out in such undertaking relating to the safe and proper use of the Goods without risk to health. The Seller in writing in respect of any liability, monetary penalty or fine in respect of or in connection with the Goods incurred by the Seller under the Health and Safety at Work Act 1974 or any statutory modification or re-enactment thereof or any regulations, orders or directions made thereunder.

6. SAMPLES

Notwithstanding that a sample of the Goods be exhibited to and inspected by the Buyer such sample is so exhibited and inspected solely to enable the Buyer to judge for himself the quality of the bulk and not so as to constitute a sale by sample. The Buyer shall take the Goods at his own risk as to their corresponding with the said sample and subject to the normal variation between bulk and sample accepted by the trade.

7. VARIATIONS

- (1) The Seller shall be deemed to have fulfilled the contract by delivery of a quantity within ten per cent either way of the quantity ordered and the Buyer shall pay at the contract rate for the quantity actually delivered.
- (2) The Seller reserves the right to make any deviations from any specification, sketch or sample which would not affect materially the design, if in the opinion of the Seller such alterations would facilitate the proper execution of the work.
- (3) Authors corrections on or after the first proof including alterations in style will be charged extra. Proofs of all work may be submitted for Buyer's approval and no responsibility will be accepted for any errors in proofs passed by him. Any additional cost arising from alterations or corrections after approval of a sketch or sample or after production has commenced may be charged to the Buyer. No responsibility will be accepted by the Seller for any errors in sketches or samples which have been approved by the Buyer.

8. INSTALMENT CONTRACTS

Neither the failure of the Seller to deliver any one or more of the instalments of the Goods at the times provided for delivery thereof nor any claim by the Buyer in respect of any instalment shall entitle the Buyer to treat this contract as repudiated.

9. PRICE

All orders are accepted and quotations made on the basis that materials and the Goods will be charged at the prices ruling at the date of despatch and to be paid by the Seller in writing in such prices shall include the cost of delivery to the address specified in the Seller's written acceptance or order and the Seller's standard packaging. All prices are subject to VAT and all or any other taxes, levies or duties chargeable at the rates applicable at the date of invoice.

10. PAYMENT

- (1) Accounts are due at the end of the month following despatch of the Goods from the Seller's works unless specified otherwise by the Seller in writing. Prompt payment is a condition precedent to future deliveries.
- (2) The Seller shall be entitled to interest (unless waived in whole or in part in writing by the Seller) on the amount of any unpaid accounts or part thereof from the due date for payment to the actual date or dates of payment such interest to be at the annual rate of 5% above base lending rate for the time being in force by The Royal Bank of Scotland with a minimum of £5 per centum per annum and shall reimburse the Seller all costs and expenses incurred in the collection of any overdue monies.
- (3) The Seller may before executing an order require the Buyer to lodge security approved by the Seller for the payment of all amounts due or to become due under the contract or at the Seller's option require the Buyer in some other manner to prove to the satisfaction of the Seller that it will fulfil all its obligations and make payment on the due date or dates. Should the Buyer fail or refuse to provide such security or such proof to satisfy the Seller in this particular, the Seller reserves the right to suspend forthwith all deliveries until such security is lodged and (or alternatively) if the Buyer continues to fail or refuses to provide such security or provide such proof, the Seller may at any time thereafter terminate the contract insofar as any Goods remain to be delivered thereunder without notice and without incurring liability of any kind.
- (4) The Seller shall be entitled to recover from the Buyer any loss suffered by or caused to the Seller by reason of the Seller suspending any delivery or deliveries of Goods and/or cancelling the contract insofar as any Goods remain to be delivered in accordance with sub-clause 3 hereof or in respect of any other loss.

11. 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 14 days notice to the Buyer be entitled to dispose of such goods and property as it deems fit and apply the proceeds towards such debts.

12. DEFAULT INSOLVENCY BANKRUPTCY ETC. OF BUYER

If accounts due from the Buyer to the Seller shall become overdue or if the Buyer shall make default in or commit a breach of the Contract or of any other of its obligations to the Seller or if any distress or execution shall be levied upon the Buyer's property or assets or if the Buyer shall make or offer to make any arrangements or composition with creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him or if the Buyer is a Limited Company and any resolution or petition to wind up such Company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented or if a receiver of such Company's undertaking property or assets or any part thereof shall be appointed the Seller shall have the right forthwith to determine any Contract then subsisting and upon written notice of such determination being posted to the Buyer's last known address any subsisting Contracts shall be deemed to have been determined without prejudice to any claim or right the Seller may otherwise make or exercise.

13. DELIVERY

- (1)
 - (a) Delivery shall be deemed to be complete in the case of services when the Buyer pays for (or if earlier uses) the Goods.
 - (b) Delivery shall be deemed to be complete in the case of Goods other than services:-
 - (i) in the case of transport arranged by the Seller - at the moment of arrival of the Goods at the point of delivery and before the commencement of unloading; or
 - (ii) in cases where the Contract is for the installation of the Goods - when the Seller notifies the Buyer in writing (whether by invoice or otherwise) that installation of the Goods is complete; or
 - (iii) in all other cases - when loading of the Goods on to the Carrier is complete.
 - (c) The date of delivery shall, in every case, be dependent upon prompt receipt of all necessary information, final instructions or approvals from the Buyer. Alterations by the Buyer in design specifications or quantities required may result in delay in delivery.
 - (d) The Buyer shall ensure that there is good and sufficient access for lorries to the point where the delivery vehicles are required to unload.
 - (e) Where the contract does not require the Seller to perform erection on site then the unloading of the delivery vehicles shall be undertaken by and be the responsibility of the Buyer
- (2) Any time or date named by the Seller for delivery is given and intended as an estimate only and the Seller shall not be liable to make good any damage or loss arising directly or indirectly out of delay in delivery and the Buyer shall not be entitled to rescind the Contract for late delivery whether or not such delay in delivery is caused by the fault of the Seller.
- (3) If for any reason the Buyer is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery, the Seller shall, if it's storage facilities permit, store the Goods and the Buyer shall be liable to the Seller for the reasonable cost (including insurance) of it's so doing.
- (4) Without prejudice to clause 13 (3) above, the Seller may require the Buyer by notice in writing to accept delivery of the Goods within a period of fourteen days from the date thereof. If the Buyer is unable or fails or refuses to do so or is unable or fails or refuses to provide safe and adequate access or adequate unloading facilities or to unload at the address for delivery within such time the Seller may terminate the Contract in respect of such portion of the Goods as are by reason of the inability failure or refusal of the Buyer aforesaid not unloaded and thereupon to recover from the Buyer any loss sustained by or caused to the Seller by reason of such failure and may suspend any further deliveries to terminate the Contract insofar as any Goods remain to be delivered thereunder. This provision shall be without prejudice to any other claim which the Seller may have in respect of the Buyer's failure to take delivery at the appropriate date.

14. SUB-CONTRACTING

The Seller reserves the right to sub contract the fulfilment of the order or contract (including any installations) or any part thereof.

15. PATENTS TRADE MARKS ETC.

The Buyer shall indemnify the Seller against all damages, penalties, costs and expenses to which the Seller may become liable as a result of the work done in accordance with the Buyer's specifications or instructions which involves the infringement of any letters patent trade mark or registered design or which constitutes the tort of passing off.

16. PATTERNS DRAWINGS DIES ETC.

All patterns, drawing, dies, moulds, specifications and other such items supplied by the Seller to the Buyer shall be the property of the Seller and shall be returned to the Seller on request or completion of the Contract in good order and condition subject to fair wear and tear. Should the Buyer fail to so return any of such items then the Buyer shall be liable for any loss or expense thereby suffered or incurred by the Seller, who shall be entitled to set off the same against any sum payable by the Buyer to the Seller.

17. FORCE MAJEURE

- (1) The due performance of the Contract is subject to cancellation or variation by the Seller as a result of any act of God, war, riot or civil disturbance, strike, lock-out or other labour dispute, fire, flood, drought or accident legislation requisitioning or other act of order by any Government Department, council or other duty constituted authority or of any other cause (whether of the foregoing classes or not) beyond the Seller's control in such event no liability shall attach to the Seller by reason of cancellation or variation of any Contract.
- (2) Deliveries will be wholly or partially suspended and the time of such suspension added to the original Contract in the event of a stoppage delay or interruption of work in the establishment of the Seller during the delivery period as a result of any of the causes set out in sub clause (1) or any cause whatsoever beyond the control of the Seller.

18. PARTIAL PERFORMANCE

In the case of partial performance of the Contract by the Seller it shall be entitled to a quantum meruit in respect of all work done by it and costs, expenses and charges incurred by it without prejudice to its rights should the non completion of the Contract be occasioned by the Buyer.

19. RISK AND DAMAGE IN TRANSIT

- (1) The Goods of any of them the subject of the Contract shall be at the risk of the Buyer upon delivery
- (2) If the Seller undertakes delivery of the Goods it shall not be liable:-
 - (a) For any loss, damage, deviation, delay or detention of the Goods in the course of transit or for misdelivery or short delivery unless the Seller gives to the Seller and to the carrier within three days of receipt of the goods, a written notice of the Buyer's complaint.
 - (b) For non delivery or non arrival of the whole of any consignment of the Goods or of any separate packages unless the Buyer shall give to the Seller and to the carrier a written notice thereof within fourteen days of the date of notification of the despatch of the Goods.
 - (3) For the purpose of clauses 3 and 19 time shall be of the essence.
 - (4) Notwithstanding and without prejudice to clause 19 (2) above if Goods delivered to the Buyer shall have been processed, manufactured and/or incorporated and/or admixed with any other Goods or have been sold by the Buyer or the Buyer does not permit the Seller to examine the Goods or the Buyer alters the Goods in any way the Buyer shall be deemed to have accepted such Goods as being in all respects in accordance with the Contract.

20. TITLE

The property in any Goods supplied by the Seller shall not pass to the Buyer until the full price of the Goods and all monies payable by the Buyer to the Seller in respect on the Goods have been paid or as hereinafter provided the Goods have been sold. The Buyer may nevertheless either sell the Goods or any of them in the ordinary course of it's business by way of bona fide sale at full market value or incorporate manufacture or process the Goods with other products of the Buyer and sell the Goods so incorporated, manufactured or processed and until such sale the Buyer shall hold the Goods as bailee and shall keep the Goods readily identifiable as the property of the Seller and on sale the Buyer shall hold the net proceed, of such sale as Trustee for and on behalf of the Seller until the full price of the Goods and all sums payable to the Seller in respect of the Goods have been paid to the Seller. Without prejudice to any other rights or remedies to which the Seller may be entitled if the Buyer shall make any default in any payments due to the Seller then the Seller may forthwith take possession of all Goods in respect of which such payments are due and belong to the Seller and may enter upon any premises where they are stored or where they are reasonably thought to be stored by its servants and agents for that purpose. If the Buyer shall default any payment as and when the same falls due or upon the commencement of any act or proceedings in which the Buyer's solvency is involved the full balance outstanding shall become immediately due and payable.

21. PACKAGING

- (1) All pallets, stillages, crates, reels and other packaging specified as returnable will be charged for and credited if returned in good condition within twenty eight days. No credit will be given for packaging claimed to be returned unless the Buyer can produce the Seller's receipt therefore clearly identifying the items returned.
- (2) Unless otherwise expressly agreed any packaging supplied by the Seller is intended to be sufficient only to protect the Goods for all normal conditions of transit and for the normal period of transit only.

22. VARIATION OF TERMS

Any variation of the terms and conditions of any Contract shall become binding only if confirmed in writing by the Seller and the Buyer.

23. EFFECT OF LEGISLATION

If any of these conditions or any part of these conditions is rendered void by any legislation which it is subject it shall be void to that extent and no further

24. PROPER LAW

The Uniform Law on the International Sale of Goods shall not apply to this Contract. The construction validity and performance of this Contract shall be governed by the Law of England. Paragraph headings herein are only aids to reference and shall not affect the construction of these Conditions

25. ARBITRATION

Any dispute under the contract shall be referred to an arbitrator or arbitrators to be appointed by the parties or in default of agreement by the President of the Law Society for the time being and his or their decision shall be binding on both parties and his shall be a submission to arbitration within the Arbitration Act 1950 or any statutory modification thereof for the time being in force.

26. WORK ON SITE

- (1) Where the Contract with the Seller requires the performance of the works by the Seller on site then unless otherwise stated in the Seller's quotation or otherwise accepted by the Seller in writing the following shall be the Conditions of the Contract:-
 - (a) All site work can be carried out by the Seller if it so desires in one continuous operation through to completion.
 - (b) There is good digging ground free from subterranean obstructions and mechanical tools (compressors and breakers) will not be required.
 - (c) Lines and levels will be given to the erectors of the Seller by the Buyer or its surveyor.
 - (d) There will be free access to both sides of the fence line.
 - (e) There will be a safe storage area to be provided for the Seller's materials on site.
- (2) Prices quoted by the Seller include the supply and placing of the necessary concrete for post bases to the relevant specification or British Standard BS 1722.
- (3) If the Seller incurs extra costs in the performance of the Contract either by reason of alteration in the Buyer's instructions or the lack of or delay in receipt of such instructions or by reason of unforeseen interruptions, delay, overtime requirements, unusual hours, mistakes or additional or varied works in circumstances where the Seller is not responsible therefore then the Seller may increase the Contract price to cover such extra costs and to allow for overheads and profit thereon.