

# Conditions of sale

## 1. Definitions

1.1 In these conditions, the following words shall have the following meanings:-

'Seller' means Simpson Donald & Co Ltd. Ltd and its servants and agents. 'Buyer' means the person, firm or company to whom the Seller's quotation is sent or by whom the Order is placed, and their servants and agents. 'Order' means the Order placed by the Buyer for the Goods. 'Goods' shall mean the items and services referred to in the Seller's quotation and/or in the Order.

## 2. Application of these conditions of sale

2.1 Unless otherwise agreed in writing by the Seller, these Conditions of Sale shall apply to and govern all contracts for the sale and supply of Goods, and all Orders are accepted in accordance with these Conditions of Sale. Any counter-offer made or conditions issued by the Buyer, whether before or after the Buyer has notice of these Conditions of Sale, shall be of no effect and shall be treated as not having been accepted by the Seller, even if the Seller returns to the Buyer a document containing the Buyer's counter-offer or conditions.

2.2 In any event acceptance of the Goods shall be deemed unqualified acceptance of these Conditions of Sale

## 3. Acceptance

3.1 Any quotation, unless it provides otherwise, is open for acceptance for a period not exceeding 30 days, after which period the quotation is open to revision.

3.2 An order cannot be cancelled except by written agreement.

## 4. Price

4.1 Prices quoted are exclusive of VAT and exclusive of delivery, packing and carriage charges and expenses, which shall be charged extra. A quoted price is only applicable to the specific Goods referred to in the quotation.

## 5. Delivery

5.1 All times quoted for delivery or for making Goods available for collection are given in good faith but are estimates only.

5.2 The Seller will not be under any liability if delivery or availability for collection are delayed beyond the quoted times for any reason.

5.3 In any event time for delivery, if it be agreed as a term of the contract, shall not be of the essence unless this is expressly agreed in writing by the parties.

## 6. Payment

6.1 Payment by the Buyer is due 30 days from date of invoice.. Time for payment shall be of the essence.

6.2 Failure to make payment when due entitles the Seller to withhold delivery under any contract between it and the buyer until payment has been made.

## 7. Reservation of title

7.1 Risk in the goods shall pass to the Buyer when the Goods are delivered to, or collected by, the Buyer.

7.2 The goods shall remain the property of the Seller until payment in full is made by the Buyer for all sums due under all contracts between the Seller and the Buyer.

7.3 The buyer shall hold Goods property in which remains in the Seller as bailee and fiduciary for the Seller, shall store such Goods in such a way that they can be identified as the Seller's property, and shall keep such goods separate from the property of the Buyer and any other person.

7.4 At any time whatsoever the Seller shall be entitled to recover Goods property in which remains in the Seller The Buyer grants to the Seller an irrevocable licence to enter any premises where such Goods are kept in order to recover the same.

## 8. Fitness, shortages, damage in transit, non-delivery

8.1 All orders are accepted on the condition that the Buyer has used its own skill and judgment to ascertain that the Goods are reasonably fit for any particular purpose for which they are being bought and the Buyer has not relied on any skill and judgment of the Seller.

8.2 The Buyer shall wherever possible, inspect the Goods immediately upon delivery. Where the Goods are not so inspected the Buyer shall mark the carrier's note or other appropriate note "Not Examined".

8.3 The Seller accepts liability for shortages and Goods damaged in transit only if notified in writing of such shortages or damage by the Buyer with full particulars within 7 days of delivery of the Goods, and only if, in the case of Goods damaged in transit, the Goods and their wrappings are retained for inspection by the Seller.

8.4 The Seller accepts liability for non-delivery if Goods consigned only if notified in writing of non-delivery by the Buyer within 7 days of the date of the invoice for the Goods.

8.5 In any event the liability of the Seller in respect of shortages, goods damaged in transit and non-delivery of Goods shall be limited to replacing the Goods in question or, at the absolute discretion of the Seller, to refunding the price of the Goods insofar as the same has been paid.

## **9. Guarantee**

9.1 Subject to observance by the Buyer of the terms of payment and all other obligations of the Buyer, the Seller guarantees that it shall replace, or, at its absolute discretion, repair any goods in which defects appear under within 90 days of delivery or collection if the Seller is notified in writing by the Buyer of the defects as soon as these are discovered.

9.2 The guarantee only covers defects due to faulty material or workmanship. It does not cover defects caused by wear and tear abnormal conditions of working, accident, misuse, or repairs or modification of the Goods carried out by or on behalf of the Buyer without the Seller's written approval.

9.3 The Seller warrants that it has title in and the unencumbered right to sell the goods.

## **10. Limitation of liability**

10.1 The Seller shall not be liable for any consequential or indirect loss suffered by the Buyer whether this loss results from a breach of duty in contract or in tort or in any other way (including loss resulting from the Seller's negligence) such loss include: loss of profits, loss of contracts, loss of goodwill, damage to property of any person (buyer included), personal injury to or death of any person (Buyer included) except insofar as personal injury or death results from the negligence of the Seller.

10.2 In any event the Seller's total liability for any one claim or for the total of all claims arising from any one act shall not exceed the price of the Goods that are the subject-matter of the transaction or act giving rise to the claim or claims.

10.3 Nothing in these conditions affects the Seller's liability for death or personal injury resulting from its negligence, which liability the Seller accepts.

## **11. General**

11.1 Any question relating to any quotation or any contract subject to these conditions of sale or agreed amendment thereof shall be determined by and in accordance with Scottish Law.

11.2 In the event that any of these Conditions of Sale shall be determined to be invalid or unlawful or unenforceable to any extent such Conditions of Sale shall be severed from the remaining Conditions of Sale which shall continue to be valid and enforceable to the fullest extent permitted by the law.