

WHYTE GROUP OF COMPANIES - GENERAL CONDITIONS OF SALES AND PURCHASE

STANDARD CONDITIONS OF SALE

IN THESE Conditions `the Seller' means the company stated overleaf, `the Buyer' means the person, firm or Company purchasing `the Goods' means the goods or materials which shall be the subject of the contract between the Seller and the Buyer `the Price' means the price specified in the Seller's Quotation, Acknowledgement or otherwise communicated to the Buyer and agreed.

1. ACCEPTANCE OF ORDER.

All orders are accepted by the Seller subject to these Conditions of Sale unless otherwise varied by agreement in writing. Contracts for delivery by instalments shall be deemed to be divisible.

2. THE PRICE

(i)The Seller may at any time before delivery increase the price of the undelivered balance of the goods by notice in writing to the Buyer, in such event, the Buyer may within seven days of receipt of such notice by notice in writing cancel the order so far as the undelivered balance of the Goods concerned.

(ii)Unless otherwise stated on acceptance, the price of the Goods shall include the Sellers costs of standard packing, normal insurance and delivery of the Goods to any one address in the United Kingdom specified in writing by the Buyer to and agreed by the Seller prior to delivery.

(iii)Containers and/or packages are not returnable unless stated in the Seller's Quotation, Acknowledgement, or other documentation. Returnable containers and/or packages shall be returned empty by the Buyer to the Seller's address stated on the delivery note in good condition, carriage paid, within three months of delivery of the Goods. If not, such containers and/or packages will be chargeable at replacement value and no credit will be due on containers and/or packages for which a charge shall have been made by the Seller.

3. PAYMENT

(i) Unless otherwise stated on the Seller's invoice agreed in writing payment for the goods shall be made not later than twenty days after the end of the month of invoicing but so that the Seller may at anytime on or after acceptance by notice in writing to the Buyer vary the terms of payment by demanding immediate payment or (at the Seller's option) adequate security for sums which will be due hereunder.

(ii) Time of payment shall be of the essence and failure by the Buyer to pay the price or any instalment thereof in due time shall entitle the Seller to treat such failure as a repudiation of the whole Contract by the buyer and to require the Buyer to make immediate payment of all monies due or to become due and to recover from the Buyer damages for such breach of contract and/or (at the Seller's option) to charge interest at either eight per centum per annum or two per centum above the Base Rate of National Westminster Bank Ltd. whichever shall be the greater, from the due date until payment.

(iii) Non payment of any invoice shall be considered a fundamental breach by the Purchaser entitling us to suspend any further delivery or to consider the contract terminated immediately by reason of the Purchaser's default. Late payment fees are due automatically, without the necessity of a reminder and without prejudice to any other damages, from the day following the date or the end of the period for payment indicated on the invoice or fixed in the contract. The interest rate applied will be plus 6 percent (6%). In addition, as compensation for recovery costs and pursuant to the relevant European Directive on combating late payment in commercial transactions, a fixed sum as well as any additional costs of the recovery of the original invoice (to the extent reasonably incurred), shall be payable. In the event there has been a substantial reduction of the solvency ratio of the Purchaser, we reserve the right to require payment guarantees from the Purchaser or, as an alternative, to terminate any outstanding orders.

4. DELIVERY

Unless otherwise agreed in writing between the Seller and the Buyer the following provisions shall apply. (i) Delivery of the Goods shall take place when the Goods shall be delivered at the address specified on the Seller's Quotation, Acknowledgement or other documentation. (ii) The delivery date or dates specified on the Seller's acceptance of order are estimates only. The Seller shall not be liable for failure to deliver by such date or dates or for any damage or loss arising directly or indirectly out of delay in delivery, nor shall the Buyer be entitled to refuse to accept the Goods because of late delivery.

(iii) The risk of any loss or damage to or deterioration of the Goods shall be borne by

the Buyer from the time delivery has taken place as in (i) above.(iv) In respect of Sea Transit the Seller shall not be required to give the Buyer the notice relating to Insurance of the Goods referred to in Section 32(3) of the Sale of Goods Act 1979.

5. PROPERTY.

Notwithstanding delivery and the passing of risk and solely for the purposes of securing payment of all monies due or to become due to the Seller by the Buyer on any account in the event of the Buyer entering into liquidation or having a winding up order made against it or a receiver or receiver and manager being appointed of its assets or income or any part thereof or in the event of the Buyer being an individual or individuals he or either of them committing any act of bankruptcy or having any bankruptcy petition presented against him or either of them:

(i)The property in the Goods shall remain in the Seller until payment in full has been made to the Seller by the Buyer for the Goods and all other sums due to the Seller at the date of delivery of the Goods.

(ii)Where full payment has not been made to the Seller and the Buyer uses the Goods in his manufacturing process or incorporates the goods with other products the property in the Goods shall be retained by the Seller in so far as such Goods are identifiable.

(iii)Until such payment is made the Buyer shall hold all Goods and materials the property in which is vested in the Seller on a fiduciary basis and in any of the events specified above the Buyer shall store the Goods and materials so as to be clearly identifiable as the property of the Seller.

6. 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 paid for) and shall after the expiration of fourteen days written notice to the Buyer be entitled to dispose of such Goods and property as it deems fit and apply the proceeds towards such debts.

7. SHORTAGES AND DAMAGES and/or LOSS IN TRANSIT.

(i)Unless otherwise agreed in writing between the Buyer and Seller the Seller may deliver against any order an excess and/or deficiency up to ten per cent of weight or volume ordered without any liability whatsoever to the Buyer save that the price shall be adjusted accordingly.

(ii)The Buyer shall inspect the goods immediately upon delivery and shall within three days of such delivery (time being of the essence) give notice in writing to the seller and the carrier of all claims on account of damage to or total or partial loss of Goods in transit. Claims for non-delivery must be submitted in writing to the seller within fourteen days after notification of despatch. Quality claims must be made in writing immediately after the Buyer learns of the defect and in any event not later than sixty days after the Buyer's receipts of the Goods. Any claim not made in writing and received by the Seller within the aforesaid time limits shall be deemed waived

(iii)If the Seller fails to make delivery or makes defective delivery of any one instalment such failure or defective delivery shall not vitiate the contract as regards other instalments.

(iv)The right of the Buyer to set off the value of any shortage, defective Goods or Goods not otherwise conforming to contract shall be restricted to the specific invoice for the Goods in question and shall not apply to previous or future accounts.

8. WARRANTY AND LIMITATION OF LIABILITY.

The Seller warrants that the Goods are produced within the accepted tolerance levels in accordance with the standard specifications stated in the Sellers official literature on the Goods current at the relevant time. Save as aforesaid, all other conditions, guarantees or warranties whether expressed or implied by statute, common-law or otherwise including (but without prejudice to the generality of the foregoing) conditions, guarantees or warranties as to quality, fitness for purpose or description of the Goods or their life or wear or use under any conditions whether known or made known to the Seller or not are hereby excluded. The Seller's liability for any and all direct loss or damage resulting to the Buyer from defects in the Goods or any other cause shall be limited to the purchase price of the quantity of the Goods in respect of or in relation to which such loss or damage is claimed. Subject as aforesaid the Seller shall be under no liability in contract or in tort for any loss or damage or personal injury arising directly or indirectly out of the supply or use of the Goods or containers other than death or personal injury resulting from the negligence of the Seller within the meaning of Section 1 of the Unfair Contract Terms Act 1977.

9. FORCE MAJEURE.

Deliveries may be partially or totally suspended by either party during any period in which it is prevented from manufacturing delivery of the Goods through any circumstances outside its control. If, because of such circumstances the Seller is unable to supply the total requirement of the Goods the Seller may allocate its

available supply (after satisfaction of its own requirements) among all of its customers, including those not under contract as the Seller thinks fit. Deliveries so suspended shall be cancelled without liability, but the contract between the parties shall otherwise remain unaffected.

10. INDEMNITY.

The Buyer shall indemnify the Seller in respect of all damage or injury occurring to any person, firm company or property and against all actions, suits, claims and demands, charges or expenses in connection therewith for which the Seller may become liable in respect of the Goods sold under the contract in the event that the damage or injury shall have been occasioned otherwise than by the negligence of the Seller.

11. DEFAULT.

The Seller reserves the right (without prejudice to its other rights and remedies) either to terminate the contract between the parties or to suspend further deliveries under it or require payment in advance in the event that the Buyer fails to pay for any one delivery when the same becomes due or the Buyer's financial responsibility becomes unsatisfactory to the Seller or if the Buyer, being a company goes into liquidation or has a receiver appointed or not being a company has a receiving order made against him or enters into any arrangement or composition with creditors.

12. DUTY.

All import duties, VAT and other imposts will be for the Buyer's account.

13. PATENTS AND TRADEMARKS.

No representation, warranty or indemnity is given by the Seller that the Goods do not infringe any letters patent, trade marks, registered designs or other industrial rights.

14. ASSIGNABILITY.

The contract of which these Conditions form part is personal to the Buyer who shall not assign the benefit thereof without the Seller's consent.

15. PROPER LAW.

These conditions and the contract between the parties shall be construed and applied in accordance with the Law of England and the English Courts shall have sole jurisdiction in any dispute relating hereto.