

# Conditions and Terms of Trading

ALL CONTRACTS FOR SALE OR SUPPLY OF GOODS BY HALLIS HUDSON GROUP LTD SHALL BE GOVERNED EXCLUSIVELY BY THE FOLLOWING TERMS AND CONDITIONS OF TRADING ("THESE TERMS").

## 1. APPLICATION OF TERMS

- a) These terms supersede any terms and conditions proposed by the buyer, whether under any purchase order or verbally, and may not be varied except with the written consent of the Managing Director of Hallis Hudson Group Limited, hereafter known as the Group.
- b) No order shall be deemed to be accepted by the Group until the Group delivers the Goods to the buyer. "Goods" means any goods agreed in the contract to be supplied by the Group.
- c) All descriptions or illustrations contained in the Group's catalogue are designed to give an approximate idea of the Goods described in them. They do not form part of any contract between the Group and the buyer.
- d) "Contract" means any contract formed between the Group and the buyer for the sale and purchase of the Goods incorporating these Terms.

## 2. PRICE

- a) Any prices quoted in any price list, catalogue or advertisement of the Company shall only be for the guidance of buyers and shall not constitute an offer to sell at those prices. The contract price, unless otherwise specifically agreed, shall be calculated in accordance with the Company's price list and payment terms in force on the date of despatch of the goods, which may be altered by the Company at any time without notice.
- b) The price for the Goods shall be exclusive of carriage and insurance and applicable Value Added Tax.

## 3. DELIVERY AND PASSING OF RISK

- a) Whilst the Group will use its reasonable endeavours to deliver within the time specified in any order, all delivery dates are approximate and in no circumstances will time be of the essence of the contract
- b) Goods leave the Group in good condition and the buyer accepts all risks from the time that the Goods leave the premises of the Group. The transfer of risk shall not be affected by any transport insurance taken out by the buyer.

## 4. PASSING OF PROPERTY

- a) Notwithstanding delivery, the property in the Goods shall remain in the Group until the buyer has paid in full therefor, and the buyer shall hold the Goods as the Group's fiduciary agent and bailee until such payment is made and shall keep the Goods separate from those of the buyer and third parties and properly stored, protected and insured and shall indemnify the Group against any loss or damage thereto, howsoever arising. If any of the Goods are processed into other goods before payment in full for the Goods has been received by the Group, the Goods, including all other goods as aforesaid, shall be the property of the Group and the buyer hereby declares itself trustee of such Goods for the Group until such payment is made and the buyer shall hold such Goods and any proceeds of sale of such Goods and any right arising from any sale thereof as Trustee for the Group.
- b) The buyer's right of possession of the Goods under 4a) shall terminate immediately if the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors or, being a limited company, convenes a meeting of creditors or enters into liquidation or has a receiver, administrator or administrative receiver appointed.
- c) If payment is overdue in whole or in part or if any of the events in clause 4b) occur, the Group may (without prejudice to any of its other rights) recover and recall the Goods or any of them and may enter upon the buyer's premises for that purpose. These Terms constitute authority to a Third Party to enter upon any other premises wheresoever the Goods are situated for the purpose of recovering the Goods or any of them.
- d) Any loss sustained by the Group upon such recovery of the Goods as aforesaid, shall be paid by the buyer.
- e) Furthermore, the Group shall be entitled to make a claim directly against the buyer's customer for any purchase money unpaid by the Customer provided that the Group shall return to the buyer any monies recovered in excess of the amount then owed by the buyer to the Group together with the costs and expenses involved in making such a claim.
- f) Failure by the Group to enforce any of the above remedies shall not be construed as a waiver of the Group's rights hereunder.

## 5. EXPEDITED DELIVERY

- Should expedited delivery be agreed and necessitate overtime or additional cost, the said costs and overtime expenses shall be paid by the buyer.

## 6. NEXT DAY DELIVERY

Subject to clause 12 hereunder, the Group will use its reasonable endeavours to ensure that orders for Goods in stock placed before 5.00 p.m. on a working day for Next Day Delivery (excludes off shore parts of the United Kingdom and the Scottish Highlands and Islands) will be delivered to the buyer before 6.00pm on the following working day. Saturdays, Sundays, Bank Holidays and buyer's half-day closing days are not working days for this purpose. In the event of non-performance by the Group or its agents the buyer must notify the Group by telephone or fax as to the detail of their claim by 4.00pm on the day following the day upon which delivery was due in order to qualify for compensation. Compensation will be restricted to a maximum of £7.20 (seven pounds and 20p) and will be given by way of a credit note to be raised by the Group to the buyer's account. Neither the Group nor its agents will be liable for any costs or losses howsoever incurred by the buyer or any other party as a result of failure to deliver on the next working day.

## 7. DELIVERY AND STORAGE CHARGES

- a) For details of delivery and administration charges application should be made to the Customer Services Department of the Group. The said charges can vary from area to area and are periodically reviewed.
- b) The Group may at its absolute discretion, make a reasonable storage charge for custody of such Goods standing to the credit of the buyer or to the buyer's order.

## 8. CLAIMS AND LIABILITY

- a) Each delivery shall be considered a separate transaction for which payment must be made, and the failure of any one delivery shall not affect the due performance of the contract.
- b) Any claim in respect of a deficient delivery, missing or damaged Goods must be notified to the carrier and the Group by telephone or fax within 24 hours of receipt of the delivery and confirmed in writing to the Group within 3 days thereafter. Non-delivery of a full consignment must be reported to the Group in writing within 7 days of the invoice date. In the absence of claims within these terms the Goods shall be deemed to have been delivered in accordance with the contract, and in any event the Group shall not be liable for any consequential loss howsoever occasioned arising out of any failure to deliver Goods of the quantity ordered.

c) The Group warrants that the Goods will be of satisfactory quality upon delivery within the meaning of the Sale of Goods Act 1994 and suitable for the purpose for which they are described in the catalogue. Any claims for breach of this warranty must be notified to the Group in writing within 14 days of receipt of the Goods by the buyer and the Group must be given a reasonable opportunity of examining such Goods. The Group shall not be liable in respect of any such Goods which have been subsequently altered, processed, cut and/or installed. In any event the Group's maximum liability for breach of this warranty will be limited to repayment of the purchase price or replacement of the Goods and under no circumstances will any liability be accepted for any consequential loss howsoever occasioned.

d) The Group shall not be liable for any loss, damage or deterioration of the Goods arising directly or indirectly from the adverse use, application or storage of any Goods other than in accordance with good trade practice.

e) Whilst reasonable endeavours will be made to deliver the correct quantity ordered, quotations are conditional upon stocks being available and the Group shall not be liable for short delivery.

f) Where the buyer has specified in its order that the Goods shall be of certain colour or size, such specifications shall be subject to reasonable commercial variation unless otherwise stated.

g) Where Goods are subject to a claim, return of those Goods will be refused without advance authority from the Group. Should the Goods be authorised for return, a Reference Number should be obtained from the Group. The Goods must be packed in a condition suitable for transportation by a carrier, normally arranged by the Group. Details of the contents (which must conform to the Authorised Return/Collection Note) and the packages should be forwarded to the address shown on the Authorised Return/Collection Note, enclosing the buyer's Debit Note if applicable and quoting the Authorisation Number. A duplicate copy of the buyer's Debit Note, together with details of when the Goods were collected, by whom and a signature obtained from the driver should be forwarded to the Sales Office, Hallis Hudson Group Limited, Unit B1, Red Scar Business Park, Longridge Road, Preston, PR2 5NJ

## 9. LIABILITY

- a) Clause 8 sets out the entire financial liability of the Group to the buyer in respect of:-
  - (i) any breach of these Terms; and
  - (ii) any representation, statement or tortious act or omission including negligence arising out of or in connection with the Contract.
- b) Save as set out in clause 8, all warranties, conditions and other terms implied by statute or common law are to the fullest extent permitted by law excluded from the contract.
- c) Nothing in these Terms excludes or limits the liability of the Group for death or personal injury caused by the Group's negligence.

## 10. TERMINATION

The Group may, without prejudice to its other rights and remedies, terminate the said contract if either there should be any breach of the contractual liabilities of the buyer if any of the events referred to in clause 4b) occurs or in the opinion of the Group, the financial responsibility of the buyer should become impaired or unsatisfactory. Under such circumstances all outstanding unpaid invoices rendered to the buyer by the Group shall become immediately due for payment.

## 11. PAYMENT

- a) Payment should be made by cheque, cash or Bank Transfer to the Accounts Department, Hallis Hudson Group Limited, Unit B1, Red Scar Business Park, Longridge Road, Preston, PR2 5NJ
- b) In the event of non-payment of the account the Group reserve the right to take steps to recover all monies due to them without prejudicing any further transactions between the Group and the buyer.
- c) Payment of the price for the Goods is due on the 15th day of the month following the month in which the Goods are delivered or deemed to be delivered. No payment shall be deemed to have been received until the Company has received cleared funds.
- d) Time for payment shall be of the essence.
- e) All payments payable to the Group under the contract shall become due immediately upon termination of the contract despite any other provision.
- f) Under no circumstances shall the buyer be entitled to claim a right of set-off against the Group in the respect of any payment due.
- g) The Group will invoice the Goods upon despatch to the buyer. VAT will be charged at the rate applicable at the date of the invoice.
- h) If the Group is ready to deliver the Goods on the date agreed in accordance with the contract and the customer delays or requests the Group to delay delivery for any reason, the Group may present invoices to the customer for full settlement in line with the date previously agreed for delivery.
- i) The Group reserves the right to charge and to be paid interest on all overdue sums from the buyer at the rate of 5% above the Royal Bank of Scotland base lending rate for the time being from the date on which payment is due until the date on which it is received.

## 12. FRUSTRATION

Every effort will be made to carry out the contract but its performance is subject to cancellation by the Group or to such variations as they may find necessary as a result of inability to secure labour, materials or supplies or as a result of any Act of God, War, Strike, Lockout or other labour dispute, Fire, Flood, Drought, Legislation or other cause (whether of the foregoing class or not) beyond the Group's control.

## 13. DESIGNS

The buyer acknowledges the Group's ownership of designs applied to Goods and its copyright in such designs, whether registered or not. Except where the Group agrees to confine a design to a purchaser of the Goods exclusively, it reserves the right to apply the same design in Goods sold to other customers. Any exclusivity granted to the buyer shall automatically expire after six months unless the Group agrees in writing to such exclusivity being extended.

## 14. TELEPHONE CALLS

All telephone calls may be monitored for training and quality assessment purposes.

## 15. LAW

This contract shall be considered as a contract made in England and subject to English law and shall in all respects be interpreted in accordance with the laws of England and the buyer agrees to submit to the non-exclusive jurisdiction of the English Courts.

## 16. GENERAL

- a) If any provision of the Contract is found to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable, it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- b) Failure or delay by the Group in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
- c) Any waiver by the Group of any breach of or any default under any provision of the Contract by the buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the contract.
- d) The parties to this contract do not intend that any term of this contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.