

## Conditions of Sale - (Revised March 2009)

- 1 BUILDRITE TRADE & DIY SUPPLIES LTD ("the Company") shall sell and the buyer ("the Buyer") whose order for the goods, including any installment for the goods or any part of them, is accepted by the Company shall purchase the goods ("the Goods") subject to these conditions which shall govern the contract for the sale and purchase for the Goods ("the Contract") to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made by the Buyer. "These Conditions" shall mean the standard terms and conditions of sale set out in this document and shall include any special terms and conditions agreed in writing between the Buyer and the Company.
- 2 If the Buyers' order purports to exclude these Conditions such clause shall be ineffective unless the Buyer shall have obtained the Company's express written agreement to vary these Condition
  - (a) While the Company will do its best to comply with any requirements notified by the Buyer, the responsibility for ensuring that the Goods are suitable for the Buyers' purpose and meet the Buyers' requirements is the Buyers.
  - (b) No warranty, condition, description or representation (unless it was made fraudulently) given or made before the Company's acceptance of order is to be treated as a term of the contract or as inducing it unless expressly incorporated in the contract documents.
- 3 Unless fixed prices have been expressly agreed by the Company the price payable by the Buyer shall be the Company's ruling price at the date of dispatch of each delivery. Prices are subject to a delivery charge where appropriate and are subject to the addition of VAT. Payment is due by the last day of the month following the month of dispatch. The Company shall be entitled to charge the Buyer interest as per the Late Payments Act 1998. Failure to pay will lead to recovery via our debt collection service where all costs and interest as aforementioned with also be claimed against you. Acceptance of this agreement constitutes a minimum annual spend of £1000.00 and a minimum monthly usage of £10.00 i.e. if only £5.00 worth of goods charged to your account - a £5.00 usage fee will apply - this is due to the high costs of maintaining and servicing monthly accounts. There is no charge if the account is not used.
- 4 Date or periods of delivery stated in the Contract are approximate only and time shall not be of essence of the contract.
- 5 The Company shall not be liable or deemed to be in breach of contract for delay in delivery or failure to make delivery of any Goods due to circumstances beyond its control, including but without prejudice to the generality of the foregoing, war, rebellion, revolution, strikes, lock-outs, breakdown of plant or governmental or other laws, regulations rules or decrees.
- 6
  - a) The Company warrants that where applicable the Goods are at the time of supply within usual tolerances as to quality and of those specified and will replace them if deemed to be necessary. The consumer may also have the right to reject goods for a full refund (subject to proof that the item is faulty and within a timeframe of 14 days). Unless you are dealing as a consumer, we exclude all conditions and warranties regarding the fitness for purpose of the goods, whether express or implied and whether arising by statute, custom of the trade or at common law.
  - b) Subject to clause 6(a) above in respect of Goods manufactured by it the Company will (at its option) repair, replace or credit to a maximum of the price invoiced for the Goods the buyer in respect of any defects resulting from faulty materials or workmanship as long as (i) the defect does not arise from misuse by the Buyer or the use of the Buyers' own specification: (ii) prompt notification is given to the Company with 3 days of delivery or (where the defect was not apparent on reasonable inspection at the date of delivery) within reasonable time after the discovery of the defect.
  - c) Unless you are dealing as a consumer where goods supplied are not manufactured by the Company, the Company's liability is limited to passing to the Buyer the benefit of any manufacturers' warranty. If you are dealing as a consumer your rights are as set out in Statutory Law.
  - d) Where the Goods are sold under a consumer sale (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by the Conditions.
  - e) Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Buyer by reason of any representation (other than fraudulent misrepresentation) or any implied warranty, condition or any other term, or any duty at common law, or under the express terms of the Contract for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses, or other claim for consequential compensation whatsoever (and whether caused by the negligence if the Company, its employees or agents or otherwise) which arises out of or in connection with the supply of the Goods or their resale by the Buyer, except as expressly provided in these Conditions.
- 7 Risk in respect of Goods shall pass to the Buyer on delivery. When Goods are delivered by the Company's own transport, delivery shall be deemed to take place at the moment the Goods are lifted from the delivery vehicle. When Goods are delivered by other means of transport, business deliveries shall be deemed to take place when the Goods are loaded on to the road or rail vehicle used unless specifically agreed otherwise in writing. As a consumer, delivery shall be deemed to take place when the Goods are received by the consumer.
- 8 The ownership of the Goods to be delivered by the Company will only be transferred to the Buyer when payment of all monies owing by the Buyer to the Company has been made in full. Where some of the Goods supplied by the Company have been paid for and some have not, the Company shall be entitled to assume that any Goods disposed of are those that have been paid for, and that any Goods remaining are those for which payment has not been made. Until the date of payment the Buyer is required to store the Goods in such a way that it is clearly the property of the Company. Subject to the foregoing the Buyer has the right to sell the Goods before all outstanding liabilities between the Buyer and the Company has been paid.
- 9 Unless ownership has been transferred, the Buyer shall not and shall have no power to mortgage, charge or otherwise encumber the Goods or dispose of them (otherwise than by re-sale in the ordinary course of the Buyer's business) without the Company's prior written consent but if the Buyer does so all monies owing by the Buyer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.
- 10 If at any time whilst any monies are due from the Buyer to the Company (howsoever the same shall have arisen) the Buyer shall deal with the Goods in any manner (save by resale or usage in the ordinary course of the Buyer's business) adverse to the Company's title or (being a Company) shall enter into liquidation or appoint or have appointed a receiver or if any Goods in the possession of the Buyer (whether the Company's Goods or not) are seized under any execution or distress or any other form of legal process or if the Buyer shall fail to pay the Company in full for the Goods (or any other Goods previously supplied by the Company) with 48 hours of service of formal written demand for payment then there upon the Buyer shall cease to be in possession of the Goods with the Company's consent and its representative(s) shall be entitled to enter upon the business premises of any Buyer and to remove such Goods and shall not be liable for any damage or injury reasonably done to any other property of the Buyer or in the buyer's possession during such removal and retaking of possession.
- 11 Claims for non delivery, discrepancy in weight or damage must be notified in writing in the case of Goods dispatched: a) by road, within 3 days of the date of dispatch; b) by rail, within 21 days of the date of dispatch. Invoice overcharges must be notified within 14 days.
- 12 If the Buyer fails to take delivery or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Company's fault) then without prejudice to any other right or remedy available to the Company, the Company may:
  - a) store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage and administration expenses, or
  - b) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage, administration expenses and selling expenses) account to the Buyer for the excess over the price under the Contract overcharge the Buyer for any shortfall below the price under the Contract.
- 13 Orders placed cannot be cancelled by the Buyer except without the Company's consent and on terms which will indemnify the Company against loss (including the costs of all labour and materials used), damages, charges and expense incurred by the Company as a result of cancellation. The Buyer cannot return any Goods made to the Buyer's specification and drivers cannot accept the return of Goods without the Company's written authority. Any Goods returned without the Company's consent will not be acceptable for credit.
- 14 Return of Goods: a handling charge of 20% will be made on all Goods returned in good and re-saleable condition having been ordered in error or in excess of requirement whether a representative of the Company has aided with quantities or not. Any special or non stock items are not refundable.
- 15 The Buyer shall not be entitled to withhold payment of and sums due to the Company by reason of any disputed claim of the Buyer for defective Goods or alleged breach of Contract by the Company.
- 16 Without prejudice to any of its other rights the Company may without giving notice to the Buyer terminate the Contract or suspend further deliveries without liability to the Buyer in the event of the Buyer failing to make payment for any Goods when due or if the Buyer exceeds any credit limit specified by the Company or if any distress execution or other legal process shall be levied upon the Buyer or if the Buyer ceases or threatens to cease to carry on business becomes insolvent or being a body corporate has passed a Resolution for voluntary winding-up or is subject to a winding-up Order of the Court or has had a Receiver appointed or the Company reasonably apprehends that any of the events mentioned in this clause is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 17 The Company may, in whole or in part, release, compound, compromise, waive or postponed, in its absolute discretion, any liability owed to it or right granted to it under the Contract by the Buyer without in any way prejudicing or affecting its rights in respect of any other liabilities or right not so released, compounded, compromised, waived or postponed.
- 18 No single or partial exercise or failure or delay in exercising any right, power or remedy by either party shall constitute a waiver by that party of, or impair or preclude any further exercise of that or any other right, power or remedy arising under the Contract or otherwise.
- 19 To the extent that any provision of these Conditions is found by any court or competent authority to be invalid, unlawful or enforceable in any jurisdiction, that provision shall be deemed not be a part of these conditions, it shall not affect the enforceability of the remainder of these Conditions nor shall it affect the validity, lawfulness or enforceability of that provision in an jurisdiction.
- 20 The Contract between the Company and the Buyer shall be deemed to have been made in England and shall be governed in all respects by English law. The Buyer shall submit to the jurisdiction of the English courts.