

STUART TURNER LIMITED
TERMS AND CONDITIONS OF SALE

1. GENERAL

- 1.1 These Terms and Conditions ("the Conditions") constitute the only conditions on which Stuart Turner Limited ("the Company") is willing to supply goods ("the Goods") to any person to whom a quotation, confirmation of order or contract is addressed or from whom an order is received ("the Customer"). The Conditions shall prevail over any terms and conditions in the Customer's order or other document issued by him, except where specifically agreed to by the Company in writing. No employee or servant of the Company has any authority to alter, vary or waive the Conditions in any way unless expressly authorised in writing by a Director or the Secretary of the Company.
- 1.2 No employee or agent of the Company has any authority to make or give any representation or warranty in relation to the Goods unless confirmed by the Company in writing. The Customer should make his own independent enquiries as to suitability of the Goods for any specified use or purpose.
- 1.3 Any advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods, which is not confirmed in writing by the Company, is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.
- 1.4 Orders given by the Customer in respect of quotations are not binding on the Company until they have been accepted in writing by the Company.

2. PRICES

- 2.1 Although the Company will make every effort to maintain prices quoted, it reserves the right to vary prices without notice and to invoice the Goods at the prices current on the date of despatch.
- 2.2 All prices are exclusive of any applicable value added tax, other sales tax or import duty which the Customer shall be additionally liable to pay to the Company.

3. PAYMENT

- 3.1 Unless payment terms have previously been agreed in writing between the Company and the Customer, the Company shall be entitled to invoice the Customer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Company shall be entitled to invoice the Customer for the price at any time after the company has notified the Customer that the Goods are ready for collection or (as the case may be) the Company has tendered delivery of the Goods.
- 3.2 The Company reserves at its discretion the right to require payment on or before delivery. Subject to this, payment will be made in full within 30 days of the date of the invoice without any deduction or delay in respect of any set-off counterclaim or dispute unless confirmed by the Company in writing. The time for payment of the invoice shall be of the essence.
- 3.3 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
- 3.3.1 cancel the contract or suspend any further deliveries to the Customer

- 3.3.2 appropriate any payment made by the Customer to such of the Goods (or the Goods supplied under any other contract between the Customer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Customer) and
 - 3.3.3 charge the Customer interest (both before and after judgement) on the amount unpaid, at the rate of 3 per cent per annum above National Westminster Bank plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 3.4 The Company shall not be bound to supply the Goods if the Company's payment terms have not been adhered to on a previous occasion and in the event of the Company refusing to supply for this reason the Customer shall have no claim against the Company whatsoever.

4. DELIVERY

- 4.1 Delivery of the Goods shall be made by the Customer collecting or arranging collection of the Goods from the Company's premises at any time after the Company has notified the Customer that the Goods are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering the Goods to that place.
- 4.2 Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer.
- 4.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with the Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the contract as a whole as repudiated.
- 4.4 If the Customer refuses to take delivery of the Goods he shall be liable for reasonable storage charges in respect of them.

5. PASSING OF RISK AND PROPERTY

- 5.1 Risk of damage to or loss of the Goods shall pass to the Customer:
 - 5.1.1 in the case of Goods to be delivered at the Company's premises, at the time when the Company notifies the Customer that the Goods are available for collection; or
 - 5.1.2 in the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.
- 5.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of the Conditions, the property in the Goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Company to the Customer for which payment is then due.
- 5.3 Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as the Company's fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured and identified at the Company's property. Until that time the Customer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Company for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Customer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

- 5.4 Until such time as the property in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold), the Company shall be entitled at any time to require the Customer to deliver up the Goods to the Company and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Goods are stored and repossess the Goods.
- 5.5 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Customer does so all moneys owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

6. INSPECTION AND LIABILITY

- 6.1 Any claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Customer) be notified to the Company within 14 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection at the time of delivery) within the warranty period offered with the product. If delivery is not refused, and the Customer does not notify the Company accordingly, the Customer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the contract.
- 6.2 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with the Conditions, the Company shall be entitled to replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Customer the price of the Goods (or a proportionate part of the price), but the Company shall have no further liability to the Customer.
- 6.3 Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or 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 claims for consequential compensation whatsoever (and whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their resale by the Customer, except as expressly provided in the Conditions.
- 6.4 The Company shall not be liable to the Customer or be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:
- 6.4.1 Act of God, explosion, flood tempest, fire or accident;
 - 6.4.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 6.4.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - 6.4.4 import or export regulations or embargoes;
 - 6.4.5. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or a third party);

6.4.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

6.4.7 power failure or breakdown in machinery.

7. INSOLVENCY OF THE CUSTOMER

7.1 If the customer:

7.1.1 has a receiver or liquidator appointed to any of its property or business undertaking or has a petition for an administration order in respect of its property or business undertaking presented to the High Court; or

7.1.2 announces that it is ceasing or threatens to cease to trade; or

7.1.3 suspends or fails to make payment of debts when due or notifies any of its creditors that it is unable to meet its debts or that it is about to suspend payment of its debts; or

7.1.4 convenes, calls or holds a meeting of creditors; or

7.1.5 being an individual commits an act of bankruptcy or is adjudicated bankrupt or makes any composition or scheme of arrangement with his creditors; or

7.1.6 being a body corporate convenes, calls or holds any meeting for the purpose of going into liquidation other than for the purpose of reconstruction or amalgamation by the making of an order or the passing of a resolution for winding up,

then the provisions of Clauses 7.2 and 7.3 shall apply.

7.2 Notwithstanding any previous arrangements with the Customer for deferred payments the full remaining price for any goods delivered by the Company shall become immediately due to it.

7.3 Without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

8. CONSUMER RIGHTS

Nothing in any of the Conditions shall affect the statutory rights of a Consumer.

9. GENERAL

9.1 Any notice required or permitted to be given by either party to the other under the Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

9.2 No waiver by the Company of any breach of the contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

9.3 If any provision of the conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Conditions and the remainder of the provision in question shall not be affected thereby.

9.4 Any dispute arising under or in connection with the Conditions or the sale of the Goods shall be referred to the High Court of Justice or, if appropriate, a County Court, in England.

9.5 The Contract shall be governed by the laws of England.