



Gattefossé (UK) Limited – Terms & Conditions of Sale

1. GENERAL:-

1.1 All products ("Products") are sold by us and services supplied by us subject to the following terms and conditions (the "Conditions") which are the only terms upon which we carry on business and unless previously agreed in writing by an authorised officer of our Company (i) no oral, written or other addition hereto or variation or waiver hereof shall be effective and (ii) these terms and conditions supersede any other terms and conditions appearing elsewhere and shall prevail over and exclude any other terms or conditions stipulated or incorporated or referred to by the customer ("the Customer") or his agent or any third party. The giving of any delivery instructions, the acceptance of or payment for any Products or services or any conduct in confirmation of the transaction hereby contemplated shall constitute unqualified acceptance by the Customer of these Conditions.

2. QUOTATIONS and ORDER ACKNOWLEDGMENTS:-

2.1 Quotations are normally open for acceptance within 21 days from the date thereof, but are subject to confirmation in writing by us at the time of such acceptance, and no order (whether made pursuant to a quotation or not) shall create a contract unless it is accepted by us either by acceptance in writing or by the despatch of the Products ordered. Subject to the above, it is our usual practice to issue an order acknowledgement which sets out details of the order placed, and a binding contract is only formed once we have despatched the Products ordered or accepted the signed and returned the order acknowledgment.

3. PRICE:-

3.1 Prices quoted are based on the cost of materials, labour, transport, duties, levies, currency exchange rates and statutory obligations ruling at the date of quotation and if, before delivery of all of the Products there occurs any increase in any of such costs, the price payable may be increased to allow for such increase. We shall also be entitled to increase such price in the event of any error or omission on the part of us or our agents affecting it or its calculation provided that such error is manifest.

4. MISREPRESENTATIONS:-

4.1 None of our employees, other than the Secretary or a Director of our Company, is authorised to make any statement or warranty or representations as to the Products. We shall therefore be under no liability whatsoever nor shall the Customer be entitled to any remedy by reason of the Misrepresentation Act 1967 except to the extent (if any) that the Court or any arbitrator may allow reliance on it as being fair and reasonable.

5. PASSING OF PROPERTY:-

5.1 The property in the Products shall remain vested in us until both (i) the payment of the total price thereof and (ii) any other payments due to us from the Customer have been made.

5.2 Until the payments referred to in sub-clause 5.1 above have been made in full:

5.2.1 The Customer shall hold the Products as fiduciary agent for us and shall mark the Products with an indication that they remain our property and they shall be kept separate and identifiable from any other products in the Customer's possession and shall be returned to us upon request and all the incidents associated with a fiduciary relationship shall apply;

and

5.2.2 We shall have the right with or without prior notice at any time to retake possession of the whole or any part of the Products (and for that purpose shall be granted an irrevocable licence to go upon any premises occupied by the Customer).

5.3 The Customer shall indemnify us against all costs and liabilities which we incur in retaking possession of the Products (or any part thereof) or in exercising any of our rights under this Clause 5 including without limitation any liability in respect of any damage (caused to such premises in such retaking of possession and removal of Products) which it was not reasonably practicable to avoid.

5.4 Notwithstanding paragraph 5.2.1 hereof, the Customer shall be permitted to sell the Products to third parties in the normal course of business. In this respect the Customer shall act in the capacity of a commission agent and the proceeds of any such sale shall be held in trust for us in a manner which enables proceeds to be identified as such. We as principal shall remunerate the customer as commission agent by payment of a commission equivalent to the surplus which the commission agent may obtain over and above the price payable by the Customer to us under the original contract of supply in respect of the Products sold.

5.5 Notwithstanding that ownership of the Products remains with us, we shall be entitled to maintain an action for the price of the Products in the event of default in payment by the Customer.



6. TRANSFER OF RISK AND INSURANCE:-

6.1 The risk in the Products supplied shall pass to the Customer as soon as the Products have been despatched to the Customer and the Customer should arrange his own insurance thereafter.

7. ACCEPTANCE OF ORDER AND SUBSEQUENT VARIATION OR CANCELLATION:-

7.1 The Customer's order must be accompanied by all information and instructions necessary to enable us to proceed with its execution. In the event that an accepted order is with our approval varied as a result of the Customer's request we shall be at liberty to vary the contract price to take account of any additional work or cost to us. Once we have accepted an order no cancellation in whole or in part can be made by the Customer without our consent which will normally only be granted (a) where we can cancel any relevant order placed with our own supplier and (b) on terms that a cancellation charge is paid by the Customer to cover all expenses and charges incurred by us and our loss of profit on the contract.

8. ACCEPTANCE OF PRODUCTS:-

8.1 Claims for damaged products (where the damage is apparent, or would be on reasonable inspection), shortage or non-delivery must be made within 14 days from delivery (in the case of shortage or damage) or the due date for delivery (in the case of non-delivery) of the Products, quoting our order number. Claims for damaged Products shortage or non-deliveries must be lodged in writing otherwise no responsibility can be accepted. The Customer shall not be entitled to withhold payment of all or any of the purchase price while any claim is being investigated by us.

8.2 The Customer shall not be entitled to reject an order for shortage and shall inform us pursuant to clause 8.1 above where we shall remedy the shortage by delivery of the balance of the Products.

9. TERMS OF PAYMENT

9.1 Unless credit terms have been expressly agreed by us payment for Products shall be made in full on or before delivery. We may alter, suspend or revoke credit terms with any customer at any time.

9.2 Where credit is allowed unless otherwise expressly agreed with the Customer payment for the Products shall be made net (no settlement discount being allowed) on or before the 30th day of the month following the month in which our invoice relating thereto is issued (for payments made by electronic funds transfer) or the 20th such day (for any other mode of payment including cheque). Our invoice shall be issued by us on the date of despatch of the Products.

9.3 If full payment is not received by the date of delivery or (where credit has been agreed) by the due date for payment:-

9.3.1 Interest shall be payable by the Customer from the date by which payment should have been made on the unpaid amount on a daily basis at the statutory rate specified in the Late Payment of Commercial Debts (Interest) Act (irrespective of whether such Act applies to the debt or not).

9.3.2 We shall have the right to suspend any further deliveries under the particular contract or any other contract or accepted order until payment is made in full and in addition shall have the right to cancel the particular contract in relation to such further deliveries and any other contract with the Customer or accepted order and no time or indulgence granted by us to the Customer shall prejudice any right or remedy which we may have in any manner whatsoever.

9.4 No deduction shall be made by the Customer in respect of any set-off or counter-claim howsoever arising.

10. PACKING, INSURANCE, CARRIAGE & ACCESS:-

10.1 Unless otherwise agreed in writing prices are quoted to include standard delivery to the address in UK or Ireland stated on the order form; all prices are exclusive of any additional charges whether in respect of insurance, special delivery, any costs of dismantling, loading, unloading, installations or any special packing or alteration to the order required by the Customer taxes or duties or otherwise howsoever all of which shall be for the Customer's account.

10.2 Where delivery is made by us or our agents the Customer will provide safe and proper means of access to the Customer's delivery points for us and our agents and if appropriate any vehicles used by us or our agents and carriers. If the Customer fails to provide suitable means or facilities for the reception and unloading of the Products we shall be entitled to charge the Customer for any additional costs and time thereby incurred or spent by us. Off-loading and storing of the Products are the responsibility of the Customer alone and we shall not be responsible for any costs or damage to the Products in connection therewith.

10.3 Whilst we will try to meet the Customer's requirements in terms of delivery no guarantee is given as regards delivery dates which are forecasts only and we accept no liability by reason of a delay in the delivery to the Customer. We may deliver an order in more than one consignment.



11. VALUE ADDED TAX:-

11.1 VAT shall be charged to and paid by the Customer where appropriate at the relevant rate in addition to the contract price.

12. INSOLVENCY:-

12.1 If the Customer becomes insolvent or in our opinion is likely to go into bankruptcy receivership administration or liquidation or makes default in or commits a breach of the Contract we may forthwith on written notice to the Customer terminate the Contract without incurring liability to the Customer or without prejudice to our rights which may have accrued up to the date of termination.

13. FORCE MAJEURE:-

13.1 Both we and the Customer shall be released from our respective obligations in the event of national emergency war prohibitive governmental regulations or if any cause beyond the Customer's or our reasonable control renders the performance of any order impossible this provision shall not relieve the Customer of its obligation to pay for all Products delivered pursuant to any order.

14. LIABILITY FOR DEFECTS:-

14.1 We warrant that the Products to be supplied by us consequent upon our acceptance of the Customer's order, will be of normal industrial quality. Our obligation under this warranty shall be to replace free of charge any Products which are shown to our satisfaction to have been defective (which shall mean that they were, on delivery, outside their applicable specification) provided that (and except where clause 8.1 applies) notice of such defects and satisfactory proof thereof is given by the Customer immediately after discovery and in any event within twenty four months of the Products being supplied (as the case may be) and provided that the Products have only been used for the purposes for which the Products were manufactured and in accordance with normal practice and provided that the Customer shall return any such Products to us at the Customer's expense if required to do so by us.

14.2 We may, but shall not be obliged to, assist the Customer in good faith in obtaining a suitable remedy from the manufacturer of the products where Products are found to be within specification but not suitable for the Customer's needs. Except as otherwise set out in this agreement we shall not be liable for any defect or other issue arising from our supply Product where we do not obtain a corresponding remedy from the manufacturer of such Product (and nothing in this agreement shall bind us to seek such remedy).

14.3 Save as expressed in this Clause, we shall be under no liability for any personal consequential or other loss or damage of whatsoever kind, or howsoever caused, as a result of any Products supplied or work done being defective, or not in accordance with any order or as a result of anything done or omitted in connection with any work done or omitted to be done by us, including any breach by us of any fundamental term of any order and our liability under this Clause shall be in lieu of and to the exclusion of any liability, condition, guarantee, warranty, term undertaking or representation whether express or implied, statutory or otherwise and shall be limited to the value of the Products supplied under the order to which any claim relates or the amount received by us in relation to the Products under any product liability insurance currently held by us. "Consequential loss" shall include (but not be limited to) loss of profits, loss of business, remedial costs, staff costs, loss of anticipated savings or loss of capital value.

14.4 Notwithstanding anything contained in the last foregoing paragraph, our liability in respect of any Products shall be to give the Customer the benefit of any manufacturer's guarantee or other rights (if any) which are available to us against the manufacturer or its own supplier of such Products or materials, or at our option, the nett invoice value of the Products in question.

14.5 Nothing contained in this Clause shall exclude:-

14.5.1 any liability for breach of our implied undertakings as to title.

14.5.2 where the Customer deals as a consumer (as defined by the Unfair Contract Terms Act 1977) any liability for breach of its implied undertakings as to conformity of Products with description or sample or as to their quality or fitness for a particular purpose.

14.5.3 any liability arising from our negligence causing death or personal injury

14.5.4 any liability arising from fraudulent misrepresentation.

14.6 The Customer recognises that the limitation of liability contained in this clause is reasonable in that the prices quoted by us are dependent upon such limitation being incorporated in the Contract and that notwithstanding that we may have insurance cover which would operate to protect us notwithstanding the limitations of liability in this agreement, it is reasonable in all the circumstances for us to limit our liability for reasons including (but not limited to) the commercial value of minimising our insurance claims record.



15. PERFORMANCE, DRAWINGS, INSTRUCTIONS ETC:-

15.1 All particulars given by us relating to technical performance dimensions capacity coverage and weight of any Products and all illustrations descriptions specifications and drawings are given as accurately reasonably as possible (subject to the provision of such information from our own suppliers) but are approximate only and all such material contained in brochures, catalogues, price lists, and other advertising matter is intended merely to present a general idea of the Products described therein and none of such material shall form part of the contract and Products may vary slightly. In particular the provision of such description does not render the transaction a sale by description.

15.2 By ordering any Products by description the Customer shall be deemed to be holding itself out as competent in the use, storage and application of such Product.

15.3 Although samples of Products may be exhibited to and inspected by, or the results of standard tests thereon may be furnished to, the Customer, such samples and results are only exhibited or provided to enable the Customer to estimate itself the average quality of the bulk and not so as to constitute a sale by sample and we give no warranty, express or implied, that the sample represents the average quality of the bulk.

15.4 Where after the contract has been concluded we give any advice or information about the use application or storage of any product (unless such advice is given subject to a consultancy agreement in which case it is subject to its terms) such information is given in good faith but without liability as we cannot without being given an opportunity to investigate all relevant facts and reach a conclusion be held liable for giving information which should only be taken as general, and not specific.

15.5 Customers undertake to draw the attention of all persons whatsoever having access to, using, applying, installing or having access to the Products to any information or warnings concerning methods by under conditions under which the Products should be used handled applied stored or handled which is contained in our literature or attached to the labelling or packaging of the Products and to ensure compliance as far as possible by such persons with that information or warnings. Customers agree to indemnify us from all costs, claims, losses and expenses we incur consequent on a failure to comply with such information or warnings.

16. MODIFICATIONS :-

16.1 Every effort is made to ensure that the latest specification and design are available and we reserve the right to incorporate changes in design construction composition formulation or materials as we shall think fit without notifying the Customer and to supply Products which may not be in strict accordance with the agreed specification.

17. COPYRIGHT:-

17.1 We shall retain the exclusive property and reserve the copyright in all documents supplied or produced to the Customer in connection with any contract or tender and it shall be a condition of such supply or production that the contents of such documents or any part thereof shall not be communicated either directly or indirectly to any other person, firm or company without our prior written consent. All communications in connection with any Contract or intended Contract and all arrangements for the inspection of products and/or facilities shall be regarded as strictly confidential between us and shall not be divulged to any other person firm or company without our prior written consent.

18. PATENTS:-

18.1 The Customer agrees to indemnify us against all demands claims damages charges liabilities costs and expenses which may be incurred or sustained by us by reason of or arising directly or indirectly out of any third party claims or rights or otherwise howsoever in respect of any Products manufactured or services supplied in accordance with any specification design information equipment or instruction given by or on behalf of the Customer and whether relating to the infringement or the alleged infringement of a Patent Copyright Registered Design or other protected industrial right or property or otherwise howsoever.

19. DESIGN RIGHTS:-

19.1 The property in the design of the Products covered by the Contract shall, subject to any existing rights of any third party in any design or invention incorporated or used in the design of the products, remain exclusively our property and neither the Customer nor any agent contractor or other person authorised by the Customer nor any other person firm company shall at any time make use of the design or any part thereof.



20. DATA PROTECTION:-

20.1 The Customer confirms that where the Customer provides us with any personal data (as defined in the Data Protection Act 1998 – “the Act”) such provision is in accordance with the Act and that the Customer gives us or obtains on our behalf all consents necessary in order for us to lawfully process such data for the purposes set out in our notification under the Act from time to time which include the administration of orders and accounts, marketing, staff training and administration, obtaining credit insurance, making credit reference agency searches, credit control, assessment and analysis (including credit scoring, market, product and statistical analysis); securitisation and protecting our interests and those of our financiers and investors. We may pass the data to other companies within the Alfa Technical Industries Limited group of companies, to financiers and investors, prospective business partners, successor businesses and prospective businesses (and their respective advisers), and in each case the data may pass outside the European Economic Area.

21. NON ASSIGNABILITY:-

21.1 The Contract is between us and the Customer as principals and is not assignable without our consent.

22. LAW:-

22.1 The contract shall be governed by and construed in all respects in accordance with English law and the Customer hereby submits for all purposes of and in connection with the Contract to the non-exclusive jurisdiction of the English Courts.

23. NOTICES:-

23.1 Any notice required to be given hereunder shall be sent to the address of the recipient given on the order. A notice shall be deemed to have been served if by hand when delivered, or sent by facsimile; or when sent by first class post 48 hours after posting.

24. GENERAL:-

24.1 The headings are for reference purposes only and do not limit or otherwise affect the interpretation of the foregoing conditions.

24.2 Each of the Clauses and sub-clauses of these Conditions of Sale shall be construed as separate and severable. If any clause is found by a competent court to be unenforceable, but would be enforceable if part of the wording was deleted and the scope of the clause reduced then such clause shall be read with such modifications as shall be required to make it effective.