

BERISFORDS LIMITED

STANDARD TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

In these Terms and Conditions the following words shall have the following meanings :-

“The Company” shall mean Berisfords Limited.

“The Goods” shall mean the products, articles or things which are supplied by the Company.

“The Buyer” shall mean the corporate, entity, firm or person, being the purchaser of the goods.

2. MAKING THE CONTRACT

2.1. All orders are placed under these Terms and Conditions alone.

2.2. These Terms and Conditions exclude any other Terms and Conditions inconsistent herewith which a buyer might seek to impose even though such other terms and conditions may be submitted in a later document and/or purport to exclude or supersede any Terms and Conditions inconsistent with them or may be contained in any offer acceptance or counter-offer made by the Buyer.

2.3. No variation of these Terms and Conditions is permitted unless expressly accepted by a Director of the Company in writing.

2.4. Any Quotation provided by the company is open for a period of 30 days only beginning with the date thereof, provided that the company has not previously withdrawn it, Any order issued by the Buyer is Subject to acceptance by the Company.

3. CANCELLATION

3.1. No cancellation by the Buyer is permitted except where expressly agreed by a Director of the Company in writing.

3.2. The Buyer will in the event of agreed cancellation by the Buyer indemnify the Company fully against all expenses incurred up to the time of such cancellation together with by way of liquidated damages a sum representing the Company's loss of profit.

4. TERMS OF PAYMENT

4.1. Unless otherwise agreed in writing all sums become due and payable under these Terms and Conditions not later than 20 days from the end of the calendar month in which they are invoiced by the Company. Time for payment shall be of essence.

4.2. The Company reserves the right to charge interest at 5% above the base rate of the National Westminster Bank PLC on all overdue accounts, such interest being deemed to accrue on and day to day basis from the due date for payment.

- 4.3. The Company reserves the right to demand payment of all outstanding balances if the Buyer shall fail to fulfil the terms of payment (whether due or not) and/or cancel all outstanding orders (whether due or not) and /decline to make further deliveries except on receipt of cash or satisfactory security.
- 4.4. The Company reserves the right at any time at its discretion to demand security for payment before continuing with or delivering any order.
- 4.5. The Buyer shall have no right of set off, statutory or otherwise.

5. **DELIVERY**

- 5.1. All items quoted for delivery shall be delivered to the "Buyer's" address supplied unless otherwise notified in writing.
- 5.2. Time of delivery is not of the essence.
- 5.3. The Company shall not be liable for any loss whatsoever or howsoever arising caused by its non-delivery or by the failure to make Goods ready for collection on the due date.
- 5.4. If the Company is prevented from delivering any goods at the time provided for delivery by reason of any cause outside the reasonable control of the Company (including, but not limited to fire, explosion, delay in supplies, interference by labour strikes, or lock outs, or non-availability of transport or materials) then the date or period for delivery shall be extended by the duration of the delaying factors. If the delaying factors shall have operated for 12 weeks or more and shall still be operating, the Buyer may give written notice to the Company to terminate the contract in respect of those goods which remain to be delivered under the contract.
- 5.5. The Company reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment. This condition shall in no way affect the company's right to suspend or terminate the whole contract.
- 5.6. If no date for delivery is stated deliveries shall be taken at a reasonable rate and spread over a period not exceeding three months from the date of the contract, or if delivered by instalments a period not exceeding three months from the previous instalment.
- 5.7. Deviations in quantity of the Goods delivered (representing not more than 10 per cent by value) from that stated in the Buyer's order shall not give the Buyer any right to reject the Goods or to claim damages, and the Buyer shall accept and pay at the contract rate for the quantity of the Goods delivered.
- 5.8. If the Buyer shall fail to require delivery of the Goods when delivery falls due, the Company shall be considered to have tendered and the Buyer to have refused to accept such delivery.

5.9. The Company shall pay the cost of carriage and packing on all orders for Goods to the net value of over £250.00 which are to be delivered in the United Kingdom except where any order or part thereof is dispatched on the specific instructions of the Buyer in a particular manner in which case the Buyer will pay the costs of carriage and/or packing as the case may be.

5.10. Except as provided in clause 5.9.1 all prices quoted do not include any carriage or packing charges and these shall be paid for by the Buyer.

6. **RETURNS**

6.1. No Goods may be returned except with the consent in writing given by a Director of the Company. The signature of a delivery note does not constitute consent.

7. **INTELLECTUAL PROPERTY**

7.1. The drawings, designs, copyright and intellectual property in relation to the production of goods produced for the Buyer by the Company shall belong to the Company unless expressly agreed in writing to the contrary.

7.2. Where Goods are ordered in accordance with the designs, drawings, specifications or samples furnished by the Buyer, the Buyer shall indemnify the Company against all liability or alleged liability in respect of any infringement of patents, registered designs, trademarks, trade names, intellectual property, or other rights of third parties arising out of the manufacture sale or use of such goods. The Buyer shall also indemnify the Company against all claims, demands, proceedings, damages, costs and expenses arising in respect of such liability or alleged liability.

8. **RISK AND THE PASSING OF PROPERTY**

8.1. Title in the Goods shall not pass to the Buyer until payment is made by the Buyer of the price and all other monies due to the Company. At any time prior to such payment being made the Company or its agents shall have the right to enter upon the premises where the Goods are stored and retake possession of them.

8.2. In respect of Goods delivered within the United Kingdom risk in the Goods shall pass to the Buyer:

- When the Goods are delivered to the Buyer's address or such other address notified by the Buyer in writing; or
- Where the Goods are collected, risk passes when the Goods are loaded onto transport provided by the Buyer or its agent.

8.3. In respect of Goods exported outside the United Kingdom the transfer risk shall be in accordance with the terms of sale specified on the face of the order covering the relevant contract, and where no such terms are specified delivery shall be deemed to be C.I.F.

8.4. The Company shall at any time be entitled to appropriate any payment made by the Buyer in respect of the Goods in settlement of such invoices or accounts in respect of such Goods as the

Company may in its absolute discretion think fit, notwithstanding any purported appropriation to the contrary by the Buyer.

8.5. If the Buyer:

8.5.1. makes default in or commits any breach of its obligations to the Company and fails to remedy such breach within a reasonable time not exceeding 14 days; or

8.5.2. is involved in any legal proceedings in which its solvency is in question; or

8.5.3. is a company and any meeting is convened or resolution is passed or petition is presented (otherwise than for reconstitution or amalgamation) to wind it up or a receiver is appointed or is subject to an administration order; or

8.5.4. ceases or threatens to cease to trade

then in any such case the Company shall immediately become entitled (without prejudice to its other claims and rights under the contract) to suspend further performance of the contract for such time not exceeding six months as it shall in its absolute discretion think fit or (whether or not notice of such suspension shall have been given) to treat the contract as wrongfully repudiated by the Buyer and forthwith terminate the contract.

9. INSPECTION / SHORTAGE

9.1. The Buyer is under a duty whenever possible to inspect the Goods on delivery or on collection as the case maybe.

9.2. Claims for short delivery must be notified in writing within 3 days of delivery of the Goods. Claims for non-delivery must be made within 7 days of the invoice date (or 10 days if by a third party carrier).

9.3. The Company shall be under no liability for any damage in transit or shortages that would be apparent on careful inspection if the terms of this clause are not complied with and, in any event, will be under no liability if a written complaint is not delivered to the Company within 3 days of delivery detailing the alleged damage or shortage.

9.4. In all cases where defects or shortages are complained of the Company shall be under no liability in respect thereof unless an opportunity has been given to the Company to inspect the goods before any use is made thereof, or any alteration or modification is made thereto by the Buyer.

9.5. Subject to Clause 9.2, Clause 9.3 and Clause 9.4 the Company shall make good any shortage in the Goods and where appropriate replace any Goods damaged in transit as soon as it is reasonably able to do so, but otherwise shall be under no liability whatsoever arising from such shortage or damage.

10. WARRANTY

- 10.1.** The Buyer should satisfy himself of the fitness for his purpose of all goods ordered by inspection/test samples or by other means, and will be deemed and conclusively presumed to have done so.
- 10.2.** The Buyer must advise the Company of the use or uses to which the Goods are to be put otherwise the Company accepts no liability for the fitness for the Buyer's purpose of such Goods.
- 10.3.** If the Goods are in such a state as would but for this condition entitle the Buyer to repudiate the contract and/or claim damages, the Company reserves the right to repair or replace the Goods.
- 10.4.** The Company warrants that any survey, advice, representation or forecast given during negotiations with the Buyer is given in good faith after consideration by the Company but the Company shall otherwise be under no legal liability whether in contract, negligence or howsoever in respect thereof to the Buyer or any other person.

11. LIABILITY

11.1. Introduction

- 11.1.1.** Nothing in Clause 11 shall be deemed to exclude or restrict the Company's Liability for death or personal injury resulting from negligence.
- 11.1.2.** Each of the Sub-clauses in Clause 11 is to be treated as separate and independent.

11.2. Warranty and Exclusions

- 11.2.1.** The Company agrees that if any defect covered by this Clause 11.2 is discovered during the period of 6 months commencing with the date of delivery, the Company with at its own option either repair the Goods at its own expense, or replace them, or refund the purchase price or a fair proportion of it.
- 11.2.2.** Clause 11.1.2 only covers defects caused by faulty design, manufacture, materials or workmanship. It does not cover defects caused by unsuitable storage conditions or processing, abnormal use, misuse or neglect. It does not cover faulty design, manufacture materials or workmanship supplied or undertaken by third parties. In respect of goods not designed or manufactured by the Company, the Company only gives such guarantee or warranty to the Buyer as the Company itself receives.

11.2.3. Claims in respect of defaults covered by clause 11.2 should be made as soon as such faults are reasonably capable of discovery but in any event.

- Where the Goods are for the Buyer's own use or processing within 28 days of delivery of the Goods; or
- Where Goods are bought for onward sale within 3 months of delivery to the ultimate purchaser;

failing which any such claim cannot be considered by the Company

11.2.4. The Buyer cannot claim the benefit of this clause unless:

- he informs the Company of the relevant defect in writing within 7 working days of discovering it; and
- he returns the goods to the Company at his own expense and risk.

11.2.5. The Company accepts no liability for any claims whatsoever once the Goods have been processed, taken into use, incorporated within other materials or otherwise dealt with.

11.2.6. In consideration for receiving the benefit of his clause, the Buyer agrees that, apart from those terms set out in Clauses 9 and 10, no other terms, conditions, warranties or innominate terms, express or implied, statutory or otherwise, shall form part of this contract or shall be implied into the contract.

11.3. Exclusion of Consequential Loss

The Company shall not be liable for any consequential or indirect loss suffered by the buyer whether this loss arises from breach of duty in contract or tort or in any other way (including loss arising from the Company's negligence).

Non-exhaustive illustrations of consequential or indirect loss would be:

- loss of profits
- loss of contracts
- damage to property of the Buyer or anyone else, and
- personal injury to the Buyer or anyone else (except so far as such injury is attributable to the Company's negligence).

11.4. Limitation

The Company's total liability for any one claim or for the total of all claims arising from any one act or default of the Company (whether arising from the Company's negligence or otherwise) shall not exceed the contract price.

12. ASSIGNMENT

The Buyer shall not assign or transfer or purport to assign or transfer the contract or the benefits thereof to any other person without the prior written consent of the Company.

13. **PROPER LAW AND JURISDICTION**

The contract shall be governed by and construed in accordance with the law of England & Wales.

14. **WAIVER**

The rights and remedies of the Company under the Contract shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by the Company, nor by any failure of or delay by the Company in asserting or exercising any such rights or remedies.

15. **HEADINGS**

The headings of these conditions are for convenience only and shall have no effect on the interpretation thereof.

| <u>Bank Account Details</u> | |
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| <u>RBS Sterling Trust Account</u> | |
| Sort Code: | 16-22-11 |
| Account: | 11064888 |
| IBAN: | GB74RBOS 1622 1111 0648 88 |
| <u>RBS EURO Trust Account</u> | |
| Sort Code: | 16-22-11 |
| Account: | ALBAFI-EURC |
| IBAN: | GB91 RBOS 1610 8510 1129 41 |
| SWIFT: | RBOS GB 2L |
| <u>RBS USD Trust Account</u> | |
| Sort Code: | 16-22-11 |
| Account: | ALBAFI-USDC |
| IBAN: | GB39 RBOS 1663 0000 6822 96 |
| SWIFT: | RBOS GB 2L |