

**R S CLARE & COMPANY LIMITED**

**GENERAL CONDITIONS OF SALE**

1. **IN THESE** Conditions the expression “the Company” shall mean R S Clare & Co. Ltd; the expression “Customer” shall mean the person, firm or company from whom an order for a Product is received by the Company and “the Products” shall mean anything supplied by the Company to a Customer.
2. **THESE** Conditions contain the entire obligations between the Company and the Customer and in the case of any inconsistency between any letter or quotation incorporating or referring to these Conditions and any order, letter or form of contract sent by the Customer to the Company whatever may be their respective dates, the provisions of these Conditions shall prevail. No variation of these Conditions shall be binding unless made in writing and signed on behalf of the Company and on behalf of the Customer. Any Concession made or latitude allowed by the Company to the Customer shall not affect the strict rights of the Company under these Conditions. If in any particular case any of these conditions shall be held to be invalid or shall not apply to the contract the other Conditions shall continue in full force and effect.
3. **QUOTATIONS** are only submitted and orders are only accepted subject to these Conditions. All prices quoted are exclusive of Value Added Tax and quotations remain open for acceptance for a period of thirty days from the date on the quotation, unless otherwise stated.
4. **THE** Company reserves the right to withdraw or revise any quotation after it has been made so that no order shall be binding on the Company unless and until it has been confirmed by the Company.
5. (a) The Company’s prices for the time being in force are subject to variation at any time to take account of variations in wages, materials or other costs but although under no obligation to do so, the Company will endeavour to inform the Customer immediately of any price change since the date of the order. The Company accordingly reserves the right to adjust the invoice price by the amount of any increase or decrease in such costs after the prices quoted and the invoice price so adjusted shall be payable as if it were the original contract price.

(b) In the event of any import duty or tax being imposed by the British Government on any of the constituents of the Company's Products or packages during the currency of a contract or any export duty or tax being imposed by any State from which the constituents of the Company's Products are obtained, then the Company may increase the invoice price by the amount of such duty or tax and the invoice price so adjusted shall be payable as if it were the original contract price.

(c) If after an order has been confirmed the Company's costs are increased by:

(i) legislative measures of any government or legislature involving new or additional duties or charges

or

(ii) any increase in road haulage rates, railway rates, air freights or shipping freights or when goods are sold at a price which includes insurance any increase in the cost of insurance

the Company reserves the right to adjust the invoice price by the amount of any such increase and the invoice price so adjusted shall be payable as if it were the original contract price.

(d) Unless otherwise stated in writing by the Company all prices are net ex the works of the Company and include packing. The Company will inform you in writing if there is any charge for any drums supplied, and if such drums are returned to the Company in good and sound condition within 12 months from the date of the invoice, the Customer will be credited in full at the rate paid for each drum returned in good and sound condition. All other packages are provided free and are non-returnable, except for pallets which are dealt with in the same manner as drums.

6. **THE** Customer agrees to pay for any loss or extra cost incurred by the Company through the Customer's instructions or lack of instructions or through failure or delay in taking delivery or through any act or default on the part of the Customer, its servants, agents, officers or employees.

7. (a) Unless otherwise stated, the terms of payment, which are "payment on or before the **30 days** following the date of invoice", must be strictly adhered to. In default of payment on the due date the

Company, without prejudice to any other rights, may charge interest at the rate of 3% over Barclays Bank Limited's base rate from time to time in force on all monies due to the Company under the particular Contract.

(b) The price of the Products shall be due in full to the Company in accordance with the terms of the order and the Customer shall not be entitled to exercise any set-off, lien or any other similar rights or claim.

8. (a) If the Products are delivered in instalments payment shall be due in respect of the instalments whereof delivery has been made whether or not the Customer claims that any of the Products are defective.

(b) If upon the terms applicable to any order the price shall be payable by instalments or if the Customer has agreed to take specified quantities of Products at a specified time, a default by the Customer of payment of any due instalment or the failure to give delivery instructions in respect of any quantity of Products outstanding shall cause the whole of the balance of the price to become due forthwith.

(c) Every delivery of instalments and every delivery of any quantity of goods under the terms of an order shall be deemed to constitute a separate contract to which the Conditions hereof shall apply.

(d) If the Customer fails to pay for a delivery of an instalment or for a delivery of any quantity of goods in accordance with the terms of the order, the Company may at its discretion, without prejudice to any other rights whether as to damages or otherwise which it may have against the Customer, terminate the contract and if the Company so terminates the contract the Customer shall have no claim whatsoever against the Company.

(e) Without prejudice to any other rights the Company may have under these Conditions, if the Company receives information which throws doubt on the credit worthiness of the Customer, then the Company shall have the right to demand immediate payment of all outstanding invoices and to demand payment on account in respect of orders which have been placed and confirmed in writing by the Company but for which no invoices have been submitted and if no payment in advance is made in respect of such orders, the company may at its absolute discretion, without any liability whatsoever, cancel such order.

9. (a) The date for delivery shall be the date on which the Products are despatched from the Company's works and the date for delivery shall be calculated from the time of the receipt by the Company of the order or from the receipt of all necessary information to enable the Company to manufacture the Products or (if demanded) the receipt of a payment on account by the Company whichever shall be the later.



(b) All times or dates given for delivery of the Products are given in good faith but without any responsibility on the part of the Company. Time shall not be of the essence of any contract nor shall the Company be under any liability for delay in delivery for any reason whatsoever whether or not such reason is beyond the Company's reasonable control unless otherwise expressly agreed in writing; at or before the date of the order in which case the Company's liability shall be limited to such liquidated damages as may be specifically agreed in writing without prejudice to the generality of the foregoing, any delay in delivery of any instalment of Products shall not entitle the Customer to refuse any subsequent instalment or otherwise repudiate the contract.

(c) All the Products shall cease to be at the risk of the Company at the point when the goods leave the Company's works; thereafter all goods shall be at the risk of the Customer provided that if the Company agrees to deliver the Products they shall continue to be at the risk of the Company until delivered to a destination as indicated by the Customer.

(d) If the products are to be delivered outside the UK in the Customer will be responsible for obtaining all consents and licences which are necessary to enable it to import and use the Products and for all necessary consents (including Exchange Control consent) to enable it to make payment for the goods and such Products as are exported outside the UK will be on C.I.F. terms insured W.P.A. unless otherwise agreed with the Customer and all claims must be notified by such a Customer within thirty days of discharge of the Products from the vessel, vehicle, aeroplane or train as the case may be.

10. **WHEN** the Customer is informed by the Company that the Products are ready for despatch the Customer will make immediate arrangements for their delivery and if the Customer does not accept delivery as agreed the Company shall be entitled to store the Products at the expense and risk of the Customer until the Customer accepts delivery of the goods. The Customer will be deemed to have accepted the goods thirty days after receipt of the Company's written notification that the Products for delivery are ready for despatch and if the Customer does not accept delivery in that time, the Products shall from that date be at the risk of the Customer and the Customer shall be liable to pay for the same in accordance with these Conditions, provided that, if the Customer does not accept delivery of the goods forty days after receipt of the

Company's written notification that the Products for delivery are ready for despatch, the company may at its discretion and without prejudice to any other right it may have, cancel the contract and re-sell the goods and there shall be no liability whatsoever on the Company if the contract is cancelled in these circumstances. The Company may also in these circumstances cancel an instalment or a delivery of any quantity of goods under a contract without cancelling any future instalments or deliveries of any quantity of goods.

11. **(a)** No claims for non-delivery, partial loss or damage to the goods will be accepted by the Company unless notified in writing by the Customer to the Company (with a copy to the carrier if the sellers own vehicles have not been used to deliver the Products):-

(i) Within four days of delivery for partial loss or damage and

(ii) Within 21 days of the date of the advice note, or if any advice note is not sent, of the date when the various documents (including the bill of lading) are copied to the Customer by the Company.

**(b)** Any complaints in respect of quality of the Products must be put in writing by the Customer to the Company within fourteen days from the date of delivery.

**(c)** The Company's liability in the event of a valid claim for non-delivery, partial loss or damage and in respect of goods which the Company agrees are not of reasonable quality is limited to giving the Customer a reasonable credit or allowance in respect thereof (or at the option of the Company to replace the Products) but in no circumstances whatsoever shall the maximum liability of the Company for Products of poor quality or for non-delivery, partial loss or damage exceed the invoice value of the Products concerned. Where any such credit or allowance is made or the Products are replaced as aforesaid, the Customer shall make no further claim against the company whatsoever in respect of the Products or for any alleged consequential loss arising from their defective condition or from nondelivery, partial loss or damage.

12. **(a)** The Title in all Products delivered by the Company will remain vested in the Company and shall not pass to the Customer until the Customer has paid in full to the Company all sums owing by the Customer to the Company under or arising from any transaction or sale or any account whatsoever.

(b) Until payment has been made in accordance with (a) above the Customer will so keep the Products that they are identified as the property of the Company and are separate from other goods and products purchased by the customer. The Products may be sold by the Customer or used in its own processes as it wishes notwithstanding the terms of this sub-clause.

(c) If the Customer does not pay for any Products supplied by the Company in accordance with the terms of payment the Company shall be entitled to enter upon the Customer's premises and take possession of any products supplied to the Customer by the Company.

(d) Upon the happening of any events whatsoever or the commencement of any proceedings which could lead to the bankruptcy, liquidation or the appointment of a receiver or manager of the Customer, all sums in respect of Products delivered by the Company to the Customer or arising from or under any transaction sale or on any account whatsoever shall become due immediately and the Company may enter upon the Customer's premises and take possession of any Products supplied to the Customer by the Company.

13. **The company** shall not be liable to the Customer for any loss or damage or expense whatsoever due to any cause beyond its control including (without prejudice to the generality of the foregoing expression) acts of government, acts of war, civil war, strikes, lock-outs, labour disputes, riots, civil commotion, fire, lightning, aircraft, shipping, transport, explosion, flooding, act of God, force majeure, illegality, breakdown, accident, theft. After the cessation of any such occurrence the Company shall not be called upon to make suspended deliveries in one lot but the Company can recommence delivery upon restored conditions subject to a variation in contract price to cover any increase in cost arising from any cause beyond the Company's control and the contract period shall be extended accordingly. If as a result of any such cause beyond its control any contract is not capable of being carried out in accordance with these Conditions, such contract shall be cancelled and there shall be no liability whatsoever on the Company as a result of such cancellation.

14. (a) The Company gives no warranty or representation whatsoever relating to the Products and none shall be implied in any contract entered into by the Company and any statutory condition or warranty or representation relating in any way to the subject matter of the contract is hereby excluded insofar as the same can be legally excluded.

(b) The Company shall not be liable to the Customer for any loss of profit actual contingent or consequential losses, expenses or damages howsoever arising suffered or incurred by the Customer.

15. (a) The Customer shall not use in relation to any products the registered trade marks of the Company or any other trade mark registered from time to time by the Company.

(b) The Customer shall be solely responsible for the consequences of any patent, trade mark, design or copyright infringement or any other infringement of a third party's rights resulting from the Customer's use or sale of any of the Products and the Customer shall fully and completely indemnify the Company in respect of all damages costs, charges and expenses for which the Company may be liable as a result of any such infringement or alleged infringement.

16. **IF** the Customer shall make default in or commit a breach of this agreement or of any other of its obligations to the Company, whether under these Conditions or otherwise, or if any distress or execution shall be levied upon the Customer's property or assets, or if the Customer shall make an offer to make an arrangement or composition with its creditors, or commit an act of bankruptcy, or if any petition or receiving order shall be presented or made against it or if the Customer is a limited company any petition or resolution to wind-up such company (other than for the purpose of reconstruction or amalgamation) shall be presented or passed, or if a receiver or a receiver and manager of such company's undertaking, property assets or any part thereof shall have been appointed, the Company shall have the right forthwith at its discretion to terminate any contract then subsisting with the Customer and upon written notice of any such termination being given to the Customer, any such contract shall deem to be terminated without prejudice to any claim or right the Company might make or exercise.

17. **DETAILS** drawings, specifications, dimensions and other descriptions used by the Company in connection with the Products are intended to be accurate but shall not import into the contract any condition or warranty in this respect. Furthermore, no statement, description, information, warranty condition or representation contained in any catalogue, price list, advertisement or communication or made verbally by any agent, representatives, employees or officers of the Company shall be construed to enlarge, vary, or override in any way any of these Conditions.



18. **ANY** notice to be given hereunder shall be deemed to have been given two days after its being posted to the last known address of the Company or Customer as the case may be provided that if the Customer's address is outside the U.K. notice shall be deemed to have been given ten days after its being posted. The Company and the Customer agree to give the other notice of any change of address within seven days of such change taking place and if such notice is not given then notices may be validly served at the last known address of the Company or Customer as the case may be.

19. **THE** Customer hereby acknowledges that it cannot assign its rights under this agreement.

20. **ANY** dispute or difference arising out of these Conditions shall be submitted to the Arbitrator of the London Court of Arbitration under and in accordance with its Rules at the date hereof.

21. **THESE** Conditions and any contract of which they form a part shall in all respects be governed by English law and shall be deemed to have been made in England.