

Conditions of Sale

1. Interpretation

1.1 In these terms and conditions the following expressions will have the following meanings and cognate expressions will be construed accordingly:

"Seller" *KEMPER (U.K.) Limited*

"Buyer" the person(s) or entity who place an Order.

"Goods" the items or articles the subject of the Order.

"Conditions" the terms and conditions set out here which govern the sale and purchase of the Goods.

"Order" the order placed by the Buyer with the Seller for the supply of the Goods.

"Contract" the contract of sale concluded by the placing of an Order which is accepted by the Seller in its confirmation of Order.

2. Scope of Contract

2.1 Neither the Buyer nor the Seller will be bound by any variation, waiver of or addition to the Conditions except as agreed by both parties in writing.

2.2 Any terms and conditions used by the Buyer in the course of its business do not apply to the Contract.

2.3 No statement or representation made at any time prior to the Contract will be a term of the Contract or deemed to be an inducement or collateral contract pursuant to which the Buyer entered into the Contract.

3. Delivery

3.1 Delivery of the Goods will be made at the Seller's earliest convenience. Any time or date for delivery is an estimate only and may be cancelled or revised at the Seller's option. Time for delivery by the Seller is not of the essence of the Contract

3.2 Each delivery operates as a separate contract.

3.3 The Buyer will accept delivery of the Goods provided such delivery is made at the Buyer's place of business within usual business hours or at any place agreed between the Seller and Buyer.

3.4 The Seller will not be liable to the Buyer for any loss or damage suffered directly or indirectly by the Buyer from any delays in delivery however arising.

3.5 The Seller will have no liability to the Buyer in the event of non-delivery of the whole or any portion of the Goods caused directly or indirectly by Act of God, elements, war, act of Government, strikes or lockouts, fire, flood, breakdown of machinery, non-delivery or delay in delivery by the Seller's suppliers of the Goods or materials required for the Goods, failure of the Seller's contractors to execute or their delay in executing any work on the Goods or any other cause (whether or not the same as the foregoing) beyond the Seller's control.

3.6 If delivery is delayed due to any of the causes referred to in clause 3.5 by a period in excess of three months the Seller may cancel the undelivered portion of the Contract by written notice.

3.7 Delivery of the Goods will be ex-works; if requested by the Buyer, the Seller will arrange delivery and insurance of the Goods in transit at the Buyer's expense.

4. Payment and Price

4.1 The price stated in the Seller's quotation does not include delivery to the Buyer's premises. Such price excludes any tax, licence fee, custom, import or export duty or charge.

4.2 The Seller's prices are valid for three months from the date of the Seller confirming the Order. After such period, the Seller may alter its prices and quotations for the Goods whenever it in its absolute discretion considers necessary so that the Contract price is that in force at delivery. The Seller will give the Buyer seven days written notice or such alteration. If the Buyer objects to the alteration, the Buyer will be treated as discharged from the Contract.

4.3 Payment of the price of the Goods will be made net in Pounds Sterling within 30 days of the date the Buyer receives the Seller's invoice; such invoice being deemed to have been received on the third day after posting. Payment must be made by cheque to the Seller at its offices at Venture Court, Debdale Road, Wellingborough or directly to its bank account number 27044900 at DZ Bank AG plc at 150 Cheapside, London EC2V 6ET, sort code 40-50-82. Payment must be made in full, without set-off or deductions. Time for payment is of the essence of the Contract.

4.4 The Seller will not be deemed to have received payment until the Buyer's cheque has been honoured on presentation for payment.

4.5 The Seller is entitled to interest on any unpaid invoices from the invoice due date until payment at the rate of 4 percentage points per annum above National Westminster Bank plc base rate prevailing from time to time.

4.6 In the event of late payment:

4.6.1 the Seller may treat the Contract as wrongfully repudiated by the Buyer without prejudice to the Seller's right to payment for any Goods delivered and to damages for the Buyer's breach of contract;

4.6.2 all the Seller's invoices will become due for immediate payment.

4.7 The Seller may treat the oldest invoices as paid first, unless the Seller indicates otherwise.

5. Inspection

5.1 The Buyer will inspect the Goods immediately they are delivered and the signature of the Buyer or of any person acting on its behalf on the delivery note will be deemed to be an acknowledgement by the Buyer that the Goods are of satisfactory quality, undamaged and in accordance with the Contract and the Seller will not replace the Goods nor be under any liability to deliver any missing part, unless the Buyer:

5.1.1 states on the delivery note that the Goods or part of them are either damaged or missing; and

5.1.2 notifies the Seller in writing within five days of the delivery of the Goods of the extent to which the Goods are damaged and/or missing or in the case of latent or hidden defects which could not reasonably be revealed by the delivery inspection, such notification must be made within 6 months of the date risk in the Goods passed to the Buyer.

6. Risk

6.1 The risk in the Goods passes to the Buyer upon despatch of the Goods by the Seller for delivery to the Buyer in accordance with these Conditions.

7. Title

7.1 The Seller will retain title to and ownership to the Goods until the Buyer has paid in full the price of the Goods.

7.2 Furthermore, the title in the Goods will not pass to the Buyer unless and until the full price of any other delivered Goods the subject of any other business transaction between the Buyer and the Seller has been paid. Such price and the price of the Goods will in clause 7 together be called "the value" and will where the context so permits include in addition any costs of repossession incurred under clause 7.4.1.

7.3 Until the value has been received by the Seller the Buyer will hold the Goods as bailee on behalf of the Seller and the Buyer acknowledges that there is a fiduciary relationship in respect of the Goods between the Buyer and Seller. Accordingly:

7.3.1 the Buyer will store the Goods on its premises separately from its own goods or those of any other person in such a way that they can be readily identified as the Goods of the Seller;

7.3.2 until full payment is made the Buyer will take all necessary measures for the protection of the Goods including their insurance against all usual risks with an insurance company approved by the Seller for the full replacement value of the Goods. The Buyer will procure that the interest of the Seller is noted upon any such insurance policy and that a copy of the policy is supplied to the Seller on its creation;

7.3.3 the Buyer is authorised by the Seller to agree to sell on the Goods at a price which is no less than the purchase price of the Goods under the Contract subject to the express condition that the entire proceeds of sale are held in trust for the Seller and are not mingled with other monies or paid into any overdrawn bank account and are at all times identifiable as the Seller's money. The Buyer will keep records (to be produced to the Seller whenever required) of the name and address of any such sub-buyer and the date and contract price of each delivery and will if the Seller so requires in writing assign such claims as the Buyer has against such subbuyers as arise from this transaction.

7.4 If the Buyer (a) fails to make any payment to the Seller when due, or (b) being an individual, proposes to compound with its creditors, applies for an Interim order under section 252 Insolvency Act 1986 or has a bankruptcy petition presented against it or being a company, enters into voluntary or compulsory liquidation, has a receiver, an administrator or administrative receiver appointed over all or any of its assets or takes or suffers similar action, or if the Seller has reasonable cause to believe that any of these events is likely to occur then the Seller will have the right, without prejudice to any other remedies:

7.4.1 to enter, without prior notice, any premises of the Buyer where Goods owned by the Seller may be and to repossess and dispose of any Goods owned by it so as to discharge any sums owed to it by the Buyer under this or any other contract;

7.4.2 to require the Buyer not to resell or part with possession of any Goods owned by the Seller until the Buyer has paid in full all sums due to the Seller under this or any other contract;

7.4.3 to withhold delivery of any undelivered Goods and stop any Goods in transit;

7.4.4 to vary by notice in writing with immediate effect the terms, if any, as to credit specified in the Contract between the Seller and Buyer in such manner as the Seller may, in its absolute discretion, determine

7.5 Each of the preceding clauses will be construed and take effect separately and in the event of one or more such clauses being held ineffective this will not affect the validity of the remaining clauses.

8. Warranties

8.1 The Seller warrants that it has title to the Goods or will have such title at the time when property in the Goods is to pass to the Buyer under the Contract and warrants that in all other respects it is able to satisfy its obligations to the Buyer under Section 12 of the Sale of Goods Act 1979.

8.2 Except as expressly stated in these Conditions all warranties and conditions whether express or implied by statute usage trade custom or otherwise relating to the quality or nature of the Goods or their life or wear or fitness for any particular purpose or use under any specific conditions are expressly excluded.

8.3 Measurements, dimensions, weights, colours and other details contained in the Seller's catalogues, sale manuals, photographs, drawings, illustrations and price lists and the Seller's samples constitute only an approximate guide and do not form part of the Contract. No warranty is given that the Goods will correspond exactly with those specified.

9. Liability

9.1 Any Goods alleged by the Buyer to be damaged or not of satisfactory quality will not form the subject of any claim for work done by the Buyer or for any loss damage or expense whatsoever arising directly or indirectly from such alleged defects. If the Goods are returned to the Seller in accordance with the Conditions and are accepted by the Seller as damaged or not of satisfactory quality they will either be replaced as originally ordered or at the sole discretion of the Seller an appropriate credit note will be issued to the Buyer provided that the Buyer has otherwise complied with the Conditions.

9.2.1 No claim under clause 9.1 will be considered by the Seller unless, in addition to the Buyer's compliance with clause 5 (Inspection), the Buyer makes the Goods available for collection by the Seller.

9.2.2 No Goods will be accepted for return without the prior agreement of the Seller and returned Goods must be properly and securely packed by the Buyer and accompanied by a detailed list giving the reasons for their return and the date and number of the Seller's invoice for the Goods.

9.3 Except in respect of personal injury or death, the limit of the Seller's liability under the Conditions will not exceed the price of undelivered Goods or Goods accepted back by the Seller under the terms of the Conditions and the Seller will under no circumstances be liable in contract or tort or otherwise for any indirect or consequential damage, loss or expense however caused whether to the Buyer or any other person or thing, whether arising directly or indirectly from the negligence of the Seller or anyone for whom the Seller is vicariously liable.

10. General

10.1 The Seller will not be affected by any delay or failure in exercising or any partial exercising of its rights under the Contract unless it has signed an express written waiver or release.

10.2 The Buyer will not assign its rights under the Contract without the prior written consent of the Seller

10.3 Any notice given under the Conditions will be duly served on the Buyer if it is left at or sent by first class post to its address last known to the Seller or to the Seller if it is left at or sent by first class post to its address last known to the Buyer. It will be assumed that any notice sent by post will be delivered on the fifth working day after posting.

10.4 This Contract will be constructed in accordance with the laws of England and the Seller and Buyer submit to the non-exclusive jurisdiction of the English courts.