

## General Terms and Conditions of Sales and Delivery

### 1. DEFINITIONS

In these Conditions "the Seller" means STOCKMEIER Urethanes UK Ltd "the Buyer" means the person firm or company buying goods from the Supplier, "Goods" means the item forming the subject matter of the contract; between the Seller and the Buyer, "Parties" means the Seller and the Buyer, "Order" means the Buyer's instructions to the Seller to supply the Goods; "Containers" includes crates, boxes, drums, and other containers in which Goods are packed for delivery; "Sellers recommendations for Use" means the Sellers recommendation for use (if any), contained in the Seller's published literature, current at the time of the Contract

Nothing in these Conditions shall exclude or restrict the statutory rights of a Buyer who deals as a consumer within the meaning of the Unfair Contract Terms Act 1977.

Clause headings are for information only and shall not affect (nor be treated or interpreted so as to affect) construction of these Conditions.

### 2. INCORPORATION OF CONDITIONS

**2.1** All Goods are sold or agreed to be sold by the Seller subject to these Conditions of Sale which override any terms or conditions stipulated or referred to by the Buyer whether in the Order or any document issued by the Buyer whether in the Order or any document issued by the Buyer or in any negotiations and so that these Conditions of Sale are the only items or conditions upon which the Seller sells or supplies the Goods.

**2.2** No variation of these Conditions shall be effective unless made in writing and signed by a duly authorized representative of the Seller.

### 3. ACCEPTANCE OF ORDERS

**3.1** Each Order constitutes a separate Contract between the Parties. Where the Goods are to be supplied by instalments each such instalment shall be deemed to be a separate Contract.

**3.2** Orders are accepted subject to availability of the Goods at the time of dispatch  
The Company reserves the right to impose a small order surcharge falling below the minimum order value at the time of the Order.

**3.3** The Company reserves the right to impose a small order surcharge falling below the minimum Order value in place at the time of the Order.

### 4. PRICES

**4.1** Prices are quoted exclusive of Value Added Tax.

**4.2** Where at the Buyer's request the Seller undertakes urgent delivery the Seller reserves the right to make an exceptional charge for such delivery irrespective of the value of the Order in question.

**4.3** The Seller may at any time before delivery vary the price of the Goods by notice to the Buyer. The Buyer may within one week of receipt of such notice cancel the order for the Goods, but if delivery of the Goods is to be made by instalments the Buyer shall be entitled to cancel only the undelivered portion of the order. No other remedy shall be available to the Buyer in respect of such variation in price. If the Buyer shall not make any such cancellation within such one-week period, the varied price shall apply to the contract except as regards those of the Goods already delivered when the variation is made.

### 5. PAYMENT

**5.1** Unless otherwise agreed in accordance with Clause 2.2, payment for the Goods is due 30 days from invoice ("the due date for payment").

**5.2** Payment shall be deemed not to have been made until any and all cheques drafts and bills by which payment is to be affected have been cleared or honored (as the case may be).

**5.3** Without prejudice to any other of its rights, the Seller reserves the right to charge interest on payments outstanding after the due date for payment at the rate (both before and after judgement) of four per cent per annum above Barclays Bank Plc Base Lending Rate in force on the due date for payment of eight per cent per annum, whichever shall be the higher, calculated on the outstanding balance (including interest) due from the due date of payment down to receipt by the Seller of payment. The Seller reserves the right to reduce or cancel the amount of interest payable hereunder and the Buyer acknowledges that any such action or omission for whatever reason shall not amount to waiver of Seller's rights hereunder or as a course of conduct varying the terms of this Agreement.

### 6. DELIVERY

**6.1** Any dates or periods for delivery of Goods quoted by the Seller are estimates only and the Seller shall not be liable for failure to meet such estimates or for any costs charges or expenses incurred as a consequence of such failure and accordingly the Buyer shall not be entitled to refuse to accept Goods or to determine the Contract merely because of such failure.

**6.2** Delivery shall take place:

**6.2.1** where the Seller undertakes delivery, when the Goods are loaded off the Seller's medium of transport at the station port or address specified by the Buyer,

**6.2.2** where the Buyer undertakes to collect the Goods, when they are loaded onto the Buyer's vehicle or other transport at the address of the Seller.

**6.3** The goods shall be at the Buyer's risk from the time of delivery as defined by Clause 6.2 or earlier when the Goods are made available for collection by the Buyer at the Seller's premises.

## General Terms and Conditions of Sales and Delivery

**6.4** The Seller shall not be liable for and the Buyer shall fully indemnify the Seller against any and all costs charges and expenses incurred due to delay in delivery of the Goods where such delay is a result of the Buyer's failure to provide as and when required all instruction licenses guarantees deposits and all such information and other assistance as may be reasonably required by the Seller.

### 7. QUANTITIES

**7.1** Where the Seller's published literature indicates that certain Goods are supplied in packages of a minimum number such Goods will only be supplied in multiples of such minimum number. Any Order which is not for such a multiple will be grossed up to the nearest such multiple as supplied and invoices as such.

**7.2** The Seller may deliver against an order an excess of deficiency of up to 10% weight or volume ordered. The quantity actually delivered will be stated in the invoice.

### 8. CONTAINERS AND PALLETS

**8.1** Returnable Containers will be returned to the Seller's Premises in good condition carriage forward within three months of delivery. Any deposit made by the Buyer on such Containers shall be forfeited in the event of failure to return them undamaged within the specified period. When no deposit is required, the Buyer agrees to reimburse the Seller the full replacement value of any Containers damaged or not returned within the period of three months from delivery. The Seller's account and rejection of damaged returnable Containers shall be accepted as final.

**8.2** Returnable pallets must be returned to the address given on the delivery note within thirty days of delivery or a charge of £10 per pallet will be made.

### 9. LOSS DAMAGE OR NON-DELIVERY

**9.1** Where the Buyer undertakes to collect the Goods the Seller shall not in any circumstances be liable for any damage from whatever cause which arise while the Goods are in transit.

**9.2** Where the Seller undertakes carriage:-

**9.2.1** The Buyer shall advise the Seller in writing of any non-delivery of the whole or any part of any Order within ten days of the Seller's invoice thereof.

**9.2.2** The Buyer shall inspect the Goods forthwith on delivery and shall have no claim in respect of any shortage or defect apparent on inspection of the Goods unless he/she notes on the Delivery Note – "Goods Received in Damaged Condition". If goods are not inspected for any valid reason the Buyer must mark "Goods Received Unchecked".

**9.2.3** Goods delivered in a damaged condition must be signed for as such and retained for the Seller's inspection. Such inspection will be carried out by the Seller within 14 days of receipt by the Seller of the delivery note duly signed.

### 10. RETURNS FOR CREDIT OR REPLACEMENT

The return of Goods by the Buyer for credit replacement will not be accepted by the Seller without the Seller's prior written authorization and then only if the Goods are in a saleable condition of which the Seller shall be the sole judge. Where Goods so returned are accepted by the Seller, it shall be for the Seller, in absolute discretion, to determine whether to give credit or replacement quantity of the Goods.

### 11. WARRANTY AND LIABILITY

**11.1** The Seller warrants that the Goods are manufactured with all reasonable care and skill and where applicable comply with the standard specifications set out in the Seller's published literature in relation to the Goods current at the date of Order and made available to the Buyer on request that the Goods are of merchantable quality. Save the aforesaid and save as regards any warranty (or guarantee) given in writing by the Seller as part of the Sale or supply of any specific Goods, all other conditions guarantees and warranties whether express or implied by the statute common law or otherwise including (but without prejudice to the generality of the foregoing) conditions guarantees and warranties as to quality fitness for use under any conditions whether known or made known to the Seller or not, are hereby excluded.

**11.2** The Seller shall be under no liability in contract or in tort for any direct consequential loss (including but without limiting the generality of the foregoing economic loss, loss of profits, loss of use or loss of production) arising out of or consequent upon or attributable to:

**11.2.1** the contract of the sale of the Goods or supply of use of the Goods and/or any containers and/or packages,  
or

**11.2.2** the buyer or any third party have made use of or adopted in whole or in part any information or data or advice given by or on behalf of the Seller in relation to Goods or their use.

**11.3** The Seller will only accept liability for direct physical injury to persons or defects in the Goods caused by the negligence of the Seller or its servant (being negligence as defined in section 1 of the Unfair Contract Terms Act 1977). Provided that the liability of the Seller under these Conditions in respect of any defects in the Goods shall in no case exceed the contract price for the Goods and it is hereby agreed for the avoidance of doubt that (except insofar as it is expressly otherwise provided in these conditions) the Seller shall in no circumstances be liable for any costs damages losses (including loss of profit) or expenses of any kind arising otherwise than directly out of any such negligence as aforesaid.

## General Terms and Conditions of Sales and Delivery

**11.4** The application use and/or processing (where permitted) of the Goods is the absolute responsibility of the Buyer. Any technician and other advice information and data provided by the Seller, whether verbally, in writing or by way of tests or trials, is given without warranty.

### 12. RETENTION OF TITLE

**12.1** Notwithstanding delivery and the granting of credit, the Goods (so long as they remain identifiable as such Goods) remain the absolute property of the Seller until payment of all account invoiced by the Seller to the Buyer and outstanding from time to time remains unpaid in whole or in part at the time of such processing and/or resale:-

**12.1.1** act and deemed to act as the Seller's agent (but without imposing any liability on the Seller to any third party); and

**12.1.2** not allow the Goods to become the subject of any charge or lien howsoever arising; and

**12.1.3** if requested by the Seller, assign the Seller any right or claim of the Buyer over any third party in respect of the Goods and impose upon any third party the same restrictions as are imposed upon the Buyer by this clause: and

**12.1.4** insure and maintain comprehensive insurance of the Goods to the full replacement value thereof against all risks, and if required, prove to the Seller that such insurance has been affected: and

**12.1.5** keep and maintain the Goods in a good and stable condition (at no cost to Seller) and agree to store the Goods, until they have been paid for, or processed and/or re-sold in the normal course of the Buyer's business in such a way that they are readily identifiable as the property of the Seller.

**12.2** At any time until the Goods have been paid for and without prejudice to any other remedies, the Seller or its agents shall be entitled immediately after giving notice of its intention to do so to enter upon the premises of the Buyer with such transport as may be necessary and re-possess any Goods to which it has title hereunder.

**12.3** Nothing in this clause shall confer any right on the Buyer to return Goods supplied hereunder or to refuse or delay payment thereof, unless otherwise agreed in writing.

**12.4** Where the Buyer is situated in Scotland and the delivery of Goods is made in Scotland then the foregoing provisions of Clause 12.1 to 12.3 shall not apply but withstanding deliver the Goods shall remain the absolute property of the Seller until the purchase price of the goods has been paid in full by the Buyer.

### 13. INTERLECTUAL PROPERTY

**13.1** No warranty or representation is given by the Seller that the goods do not infringe any Letters Patent, Trademarks, Registered Designs, Copyright, or other intellectual property rights.

**13.2** The use of the Seller's trademarks requires the prior written approval of the Seller.

### 14. FORCE MAJEURE

The Seller shall not be liable in any way for any loss or damage directly arising or indirectly, through or in consequence of delivery of the Goods being prevented or delayed by happenings or occurrences due to or by reason of any matters or things beyond the control of the Seller including (but without limitation) mobilization, hostilities, act of the Queen's enemies or war (whether declared or not). Government action departmental instructions or Act of God, riots combination of workmen, lockouts, strikes or disturbances wherever taking place, shortage of labor, raw material, fuel or power in consequence of non-delivery or any other cause, want of transport, accidents, fire, flood, blocking of or accident to airplanes, shipping or railway lines, failure of ships to sail at advertised times, reduction or stoppage of output at the works where the Goods are manufactured or premises from which they are to be delivered through fire, flood, heat, frost, storm, tempest or intemperate weather, breakdown, accidents to machinery, late provision to the Seller of any materials information or instructions pertinent to the fulfilment of the Contract by the Seller or any other cause, or any circumstances whatsoever beyond the Seller's control or any acts of third parties whether criminal or otherwise and in these circumstances the Seller expressly reserves the right to cancel or suspend the whole or any part of the Contract or any delivery.

### 15. BUYER'S UNDERTAKINGS

The Buyer undertakes to use handle and store the Goods in accordance with the Seller's Recommendations for Use and all relevant statutory provisions and will notify any person to whom he passes the Goods of the need to comply with such Recommendations for Use and will at all times indemnify the Seller in respect of all loss or damage suffered by any person firm company or property and against all actions claims demands cost charges or expenses in connection therewith for which the Seller may become liable in respect of all the Goods.

### 16. GENERAL LIEN

**16.1** The Seller shall have a general lien over any of the goods or chattels of the Buyer in the Seller's possession for any moneys whatsoever due from the Buyer to the Seller.

## General Terms and Conditions of Sales and Delivery

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### 17. ASSIGNMENT

The Contract is personal to the Buyer who shall not assign or charge the benefit thereof without the Seller's express written consent.

### 18. DEFAULT, INSOLVENCY, ETC.

**18.1** If the Buyer shall make default or commit a breach of these Conditions or any other of his obligations to the Seller, or if the Buyer suffers any judgement or any distress, seizure or execution to be levied against it or if the Buyer shall make or offer any arrangement or composition with creditors, or commit any act of bankruptcy, or if any petition or receiving order shall be presented or made up against it, or if the Buyer is a limited company or any resolution or petition to wind up the Buyer's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented to the receiver, administrator or administrative receiver is appointed over its undertaking property or assets or any part thereof, then without prejudice to any other right or remedy available to the Seller the Seller may without notice:-

**18.1.1** cancel suspend or determine the Contract or any unfulfilled part thereof and

**18.1.2** halt any Goods in transit and decline to make any further deliveries except upon receipt of advance payment or satisfactory security, and

**18.1.3** either an agent or itself have access to the Buyer's premises for the protection, removal, realization, and disposal of any Goods at any time and from time to time in which the property shall not have passed from the Seller to the Buyer.

**18.2** The granting by the Seller to the Buyer of time or any other indulgence, forbearance or concession shall in no way prejudice or constitute a waiver of the Seller's entitlement to enforce any of its rights under the Contract (except and to the extent that it shall constitute a variation of these conditions which has been made in accordance with Clause 2.2 hereof).

**18.3** If the Seller terminates the Contract in accordance with this Clause, then without prejudice to any other rights the Seller may have, it shall be entitled to retain any advance payment made by the Buyer.

### 19. NOTICES

**19.1** Notices shall be made in writing and posted in a first-class pre-paid envelope to the Buyer's and Seller's address as shown respectively on the Order and Acceptance of Order or failing those to the address at which the one Party reasonably believes the other to be carrying on business.

**19.2** A notice shall be deemed to have been given forty-eight hours after posting and in proving such service it shall be sufficient to show that the envelope was properly addressed and put in the post.

### 20. PROPER LAW

The validity construction and performance of the Contract shall be governed by the Law of England and the Parties hereby submit to the nonexclusive jurisdiction of the courts of England and Wales for the resolution of all disputes arising under Contract.

### 21. SEVERANCE

Those conditions shall apply in full save that if any Act of Parliament or other Statutory Provision for the time being in force shall avoid or make unenforceable any of the provision hereof these Conditions shall be deemed to apply with the exclusion of the provisions hereof which shall be void or unenforceable as aforesaid.