



TRADE TERMS AND CONDITIONS OF PURCHASE

1. DEFINITIONS

In these Purchase Terms:-

"We " and "Us" means P&R Building Supplies Limited and its employees and agents and "Our" shall be interpreted accordingly.

"You" means the party with whom We contract and their employees and agents. "Your" shall be interpreted accordingly.

"Contract" means the contract for the supply of the Goods and/or Services incorporating these Terms.

"Goods" means the Goods (including any instalment or any part of them) to be supplied by You under the Contract.

"Order" means Our purchase order or request for Goods and/or Services.

"Price" means the price (exclusive of Value Added Tax) of the Goods and/or Services as stated in the Order or otherwise agreed.

"Services" means the Services (if any) to be performed by You under the Contract including delivery and off loading.

"Specification" means any description and/or sample of the Goods or Services including any plans, drawings, data or other information relating to the Goods and/or Services.

"Terms" means these terms and any special terms agreed in writing between You and Us.

2. THE CONTRACT

- 2.1 The Order is an offer by Us to purchase the Goods and/or acquire the Services subject to these Terms.
- 2.2 The Order will lapse unless unconditionally accepted by You in writing within [7] days of its date.]
- 2.2a If You have not previously accepted the Order, Your commencing work on the Order, delivering the Goods or providing the Services shall be deemed to constitute acceptance on these Terms.
- 2.3 Neither the Order nor these Terms may be altered or varied without Our [Our authorised representative's] written agreement. Contrary or additional terms are excluded unless so agreed.

3. BASIS OF PURCHASE

- 3.1 The quantity, quality and description of the Goods and/or Services shall, subject as provided in these Terms, be as specified in the Order and/or in any applicable Specification.
- 3.2 You will accept Orders for direct deliveries in accordance with the minimum quantities agreed between You and Us.
- 3.3 Where Goods similar to the Goods have been supplied previously by You to Us no change in specification shall be made without Our written consent.
- 3.4 You shall comply with all statements and representations made by You relating to the Goods or Services prior to the Contract and all such statements and representations shall be terms of the Contract.
- 3.5.1 If you are the manufacturer of the Goods we reserve the right prior to completion of the Contract to require modifications to the design or composition of the Goods or vary the nature of the Services by written notification to You.

- 3.5.2 Such modifications shall be deemed to be incorporated in the Order and a reasonable adjustment acceptable to You and Us shall be made to the Price. If agreement cannot be reached We may terminate the Contract or continue the Contract as if such written notification had not been given. If the Contract is terminated Our sole liability to You shall be to pay the Price of the Goods or Services in respect of which the Contract has been terminated less Your net saving of the cost arising from the termination subject to Your duty to mitigate Your loss.
- 3.6 You shall not unreasonably refuse any request by Us or Our customer to inspect and test the Goods during manufacture, processing or storage at Your or any third party's premises prior to despatch and You shall provide Us with all facilities reasonably required for inspection and testing.
- 3.7 If as a result of inspection or testing We or Our customer are not satisfied that the Goods will comply in all respects with the Contract and We so inform You within 7 days of inspection or testing You shall take such steps as are necessary to ensure compliance. Inspection and/or notification of non-compliance shall not constitute Our acceptance of the Goods nor relieve You of any contractual or Statutory obligations.
- 3.8 You shall supply to Us and Our customer all instructions, information and warnings necessary for the safe use of the Goods together with all the necessary data and hazard sheets and such other information as We may deem necessary to comply with Statutory obligations in relation to the use or supply of the Goods. Nothing in this Clause shall be construed as relieving You from any obligation or liability You may have under this Contract, any statute or other instrument having the force of law.
- 3.9 Goods shall be marked with their EAN code as appropriate and in accordance with Our instructions and any applicable statutory or EC regulations or any requirements of the carrier.
- 3.10 Goods shall be properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course. Packaging shall comply with the (minimisation requirement of the) Producer Responsibility Obligation (Packaging Waste) Regulations 2007 and the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2008 and its weight notified to Us.

3.11 You shall provide Us and if requested Our customer with training and prompt technical and administrative support with respect to the Goods.

4. PRICE

4.1 If You are the manufacturer of the Goods the Price is fixed and shall not be altered by You.

4.2 If You are not the manufacturer of the Goods You may adjust the price of the Goods prior to delivery by such amount as may be necessary to cover any increase sustained by You after the date of acceptance of Our Order and any direct or indirect costs of obtaining, handling or supplying the Goods.

4.3 The Price is inclusive of packaging, packing, insurance, delivery to the address advised and all taxes other than Value Added Tax.

4.4 You warrant that the Price does not exceed that charged by You to any other customer purchasing the Goods or Services in the same or smaller quantities and We shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by You whether or not shown on Your terms and conditions.

5. PAYMENT

5.1 You shall be entitled to invoice Us on or at any time after delivery of Goods and performance of Services specified in the Order ("A Valid Invoice").

5.2 The following are Our Required Documents:

5.2.1 a separate delivery advice note accompanying each and every instalment of the Goods;

5.2.2 a Valid Invoice stating or accompanied by:

- purchase order number
- item number
- description and quantity of the Goods and/or Services
- date of delivery or performance
- address to which Goods delivered or at which Services performed;

5.2.3 tax exemption certificate (where relevant);

5.2.4 Material Certification or Quality Control documentation as specified in the Order or otherwise notified;

5.2.5 Notification of the packaging weight relating to the Goods

5.2.6 any other documents specified in the Order or otherwise notified; and

5.2.7 a Statement by the [10th] of the month following the month of the Valid Invoice quoting invoice number and amount outstanding.

5.3 The Price shall be due on the later of:

5.3.1 30 days after the end of the month in which We have received a Valid Invoice;

5.3.2 receipt of the Required Documents; or

5.3.3 settlement of any dispute or difference between Us relating to the Goods or Services whether by agreement or adjudication.

Our right to settlement discounts or rebates is not affected by Our payment terms.

- 5.4 Time for payment shall not be of the essence.
- 5.5 No payment by Us shall imply acceptance of any Goods supplied or Services performed nor restrict any claims or rights We may otherwise have against You.
- 5.6 We shall be entitled to set off against the Price any sums owed by You to Us.

6. **DELIVERY**

- 6.1 Goods shall be delivered to, and Services shall be performed during Our usual business hours at the address or addresses specified by Us and at Your sole risk. We shall have the right to refuse to accept Goods delivered or Services offered outside our normal business hours or in advance of the date agreed.
- 6.2 We may at any time and at no cost to Us require You to postpone delivery of the Goods or performance of the Services in whole or in part.
- 6.3.1 Where time for delivery or performance by You is specified it shall be of the essence of the Contract. If no such time is specified We may by 28 days written notice to You make time of the essence at the date fixed by such notice requesting delivery or performance and Your failure to comply with any such provision as to time shall entitle Us, without prejudice to any other right or remedy We may have in Our absolute discretion to:
- (a) treat the Contract as repudiated at any time after the time periods specified have elapsed; and/or
 - (b) recover from You all loss (including indirect and economic loss) damages costs and expenses (including legal expenses on an indemnity basis) We may incur or suffer by reason of Your failure to comply with any such provision as to time; or

(c) deduct from the Price or (if We have paid the Price) claim from You by way of liquidated damages for delay at the rate of 5 per cent of the Price for every 1 weeks delay up to a maximum of 30 per cent.

6.3.2 Our failure to invoke Our rights under this Clause on a continual or regular basis will not render them unenforceable or invalid.

6.4 If Goods are to be delivered, or Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.

6.5 If the date of delivery has not been specified You shall provide Us with 2days notice of delivery and You shall supply Us in good time with any instructions or other information required to enable Us to accept delivery of the Goods and performance of Services.

7. RISK AND TITLE

7.1 Risk of damage to or loss of the Goods shall pass to Us when the Goods have been unloaded at the delivery address notified to You.

7.2 The property in Goods shall pass to Us upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to Us once payment has been made and the Goods have been appropriated to the Contract. Where payment is made by instalments all work done and material allocated to, incorporated in and intended for the Goods for which such payment is made shall be appropriated to the Contract.

8. RESPONSIBILITIES

8.1 You warrant to Us that the Goods:

8.1.1 will be of satisfactory quality and fit for any purpose held out by You or made known to You at the time the Order is placed;

- 8.1.2 will be free from defects in design, material and workmanship;
 - 8.1.3 will correspond with any relevant Specification;
 - 8.1.4 will comply with any statements or undertakings made by You, Your employees or agents;
 - 8.1.5 will be capable of any standard of performance specified in the Order and/or Specification or otherwise made known to You; and
 - 8.1.6 will comply with all statutory requirements, regulations and codes of practice relating to the manufacture, packaging, packing, labelling including supplying information, warnings, instructions for use and maintenance, delivery and sale of the Goods.
- 8.2 You warrant to Us that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standards of quality as it is reasonable for Us to expect in all the circumstances.
- 8.3 Where the Services are performed on Our or Our customer's site You shall be responsible for all safety requirements relating to the Services and You shall comply in all respects with any health and/or safety rules notified to You. You warrant that the Services will be carried out in full compliance with the Health and Safety at Work Act 1974 and all statutory requirements, regulations and codes of practice relevant to the Services.
- 8.4 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then We shall be entitled:
- 8.4.1 to require You to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days; or

8.4.2 at Our sole option, and whether or not We have previously required You to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by Your breach and require the repayment of any part of the Price which has been paid.

8.5 You shall indemnify Us in full against all liability, losses, damages, costs and expenses (including legal expenses on an indemnity basis) awarded against or incurred or paid by Us as a result of or in connection with:

8.5.1 breach of any warranty given by You in relation to the Goods or Services;

8.5.2 any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with information supplied by Us;

8.5.3 any liability under the Consumer Protection Act 1987 in respect of the Goods;

8.5.4 any act or omission of You or Your employees, agents or sub-contractors in supplying, delivering unloading and installing the Goods; and

8.5.5 any act or omission of You, Your employees, agents or sub-contractors in connection with the performance of the Services.

9. **CONFIDENTIALITY**

9.1 Our name shall not be used by You for any advertisement or publicity or commercial use without Our prior written consent.

9.2 Any plans, drawings, data and all other information, dyes, patterns, tooling and all other items and materials relating to the Goods or Services supplied by Us to You or specifically produced by You for Us in connection with the Contract, together with any associated copyright, design rights or any other intellectual property

rights shall be exclusively Our property and except to the extent they have been consumed in the performance of the Contract You shall return them, carriage paid, to Us upon request or at the completion of the Contract.]

- 9.3 You shall not disclose to any Third Party or use any such information, items and materials or any confidential information, process or Trade Secret of Ours made known to You in connection with the Contract except to the extent that it is or becomes public knowledge through no fault of Yours or as required for the purposes of the Contract or to comply with any legal requirement.

10. TERMINATION

- 10.1 We shall be entitled to cancel the Order in respect of all or part only of the Goods and/or Services by giving You notice at any time prior to delivery or performance, in which event Our sole liability shall be to pay to You the Price for the Goods or the Services in respect of which We have exercised Our right of cancellation less Your net saving of the cost arising from cancellation subject to Your duty to mitigate Your loss.

- 10.2 Without prejudice to any other right or action or remedy which We may have We shall be entitled to terminate the Contract without liability to You if:

10.2.1 You become unable to pay Your debts within the meaning of Section 123 (Company) or Section 268 (Individual) of the Insolvency Act 1986;

10.2.2 You are subject to the levying or the threat of execution or distress on any of Your property;

10.2.3 an encumbrancer takes possession or notice is given of or a receiver, administrative receiver or administrator is appointed over all or any part of Your property;

10.2.4 You make a proposal for a voluntary arrangement or compromise between You and Your creditors;

10.2.5 You pass a resolution for voluntary winding up bankruptcy or summon a meeting to pass such a resolution otherwise than for the purposes of a bona fide amalgamation or reconstruction;

10.2.6 a Petition is presented for Your winding up or for an administration order relating to You; or

10.2.7 You cease or threaten to cease to carry on Your business.

11. **GENERAL**

11.1 The Contract is personal to You and You shall not assign or transfer any of Your rights or subject to trade customs sub contract any of Your obligations under the Contract without Our written agreement including without limitation the right to claim interest on sums payable from Us to You.

11.2 If any Clause or sub-Clause of these Terms is held by any court or other competent authority to be void or unenforceable the validity of the other Clauses or sub-Clauses of these Terms shall not be affected and they shall remain in full force and effect.

11.3 Our waiver of any breach or default of the Contract shall not be construed as a continued waiver of that breach nor as a waiver of any subsequent breach of the same or any other provision.

11.4 The construction validity and performance of these Terms and this Contract shall be governed by English Law and You agree to submit to the non-exclusive jurisdiction of the English Courts.

11.5 Any reference in these Terms to a statute, provision of a statute or regulation shall be construed as a reference to that statute, provision or regulation as amended re-enacted or extended at the relevant time.

11.7 The headings in these Terms are for convenience only and shall not affect their interpretation.

11.8 Termination of this Contract shall not affect rights and obligations which have already accrued at the time of termination.

11.9 Nothing in these Terms of the Contract is intended to or will create any benefit for or right to enforce any of the terms of the Contract to any third party.

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