

STANDARD TERMS AND CONDITIONS OF SALE AND CONTRACT

1. Interpretation
 - 1.1 In these Conditions:
 - "Client" means the person who accepts a quotation of PBL for the supply of the Goods or whose order for the Goods is accepted by PBL.
 - "Goods" means the goods, which PBL is to supply in accordance with these conditions.
 - "PBL" means **PRACTICALITY BROWN LIMITED** (registered in England and Wales under number 2114017)
 - "Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Client and PBL.
 - "Contract" means the contract to supply the Goods.
 - "Writing" includes telex, cable, facsimile transmission and comparable means of communication.
 - 1.2 Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
 - 1.3 The headings in these conditions are for convenience only and shall not affect the interpretation.
2. Basis of supply
 - 2.1 PBL shall supply and the client shall purchase the Goods in accordance with any written quotation of PBL which is accepted by the client, or any written order of the client which is accepted by PBL subject in either case to the Co, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made, or purported to be made by the Client.
 - 2.2 No variation of these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Client and PBL.
 - 2.3 PBL's employees and agents are not authorised to make any representations concerning the Goods unless confirmed by PBL in Writing. In entering into the Contract the Client acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
 - 2.4 Any advice or recommendation given by PBL or its employees, or agents to the Client or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by PBL is followed or acted upon entirely at the Client's own risk, and accordingly PBL shall not be liable for any such advice or recommendation which is not so confirmed.
 - 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by PBL shall be subject to correction without any liability on the part of PBL.
3. Orders and specifications
 - 3.1 The Client shall be responsible to PBL for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Client, and for giving PBL any necessary information relating to the Goods within a sufficient time to enable PBL to perform the Contract in accordance with its terms.
 - 3.2 No order which has been accepted by PBL may be cancelled by the Client except with the agreement in Writing of PBL and on the terms that the Client shall indemnify PBL in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by PBL as a result of cancellation.
 - 3.3 PBL will endeavor to supply Goods in accordance with any sample provided but minor variations in colour or size must be accepted by the Client.
 - 3.4 Quantities of Goods are measured on loading and in calculation quantities required the Client should make allowance for settlement.
4. Price of goods
 - 4.1 The price of the Goods shall be PBL's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in P's published price list current at the date of acceptance of the order.
 - 4.2 PBL reserves the right, by giving notice to the Client at anytime during delivery, to increase the price of Goods to reflect any increase in the cost to PBL which is due to any factor beyond the control of PBL (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the cost of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications of the Goods which is requested by the Client, or any delay caused by any instruction of the Client or failure of the Client to give PBL adequate information or instruction.
5. Terms of payment
 - 5.1 Unless otherwise agreed in writing payment shall be made in cash in advance or on delivery.
 - 5.2 PBL may in its absolute discretion agree to open a credit account for a Client on the basis of references provided. If such an account is opened the Client shall pay the price of the Goods within 30 days of the date of PBL's Invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Client. The time of payment of the price shall be the essence of the Contract.
 - 5.3 Receipts for payment shall be issued only upon request.
 - 5.4 If the Client fails to make any payment on the due date then, without prejudice to any other right or remedy available to PBL, PBL shall be entitled to:
 - 5.4.1 cancel the Contract or suspend any further deliveries to the Client.
 - 5.4.2 appropriate any payment made by the Client to such of the Goods (or any goods supplied under any other contract between the Client and PBL) as PBL may think (notwithstanding any purported appropriation by the Client) and
 - 5.4.3 charge the Client interest (both before and after any judgement) on the amount unpaid, at the rate of 3% per cent per annum above National Westminster Bank Plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purposes of calculating interest).
6. Delivery
 - 6.1 PBL shall deliver the Goods to the place stated by the Client.
 - 6.2 Any dates quoted for the Goods are approximate only and PBL shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be the essence unless previously agreed by PBL in writing. The Goods may be delivered by PBL in advance of the quoted delivery date upon giving reasonable notice to the Client.
 - 6.3 Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by PBL to deliver any one or more of the installments in accordance with these Conditions or any claim by the Client in respect of any one or more installments shall not entitle the Client to treat the Contract as a whole as repudiated.
 - 6.4 PBL employs outside Haulage Contractors for many deliveries and cannot be held responsible in anyway for any delay in delivery or damage or loss caused whatsoever to any Goods by any outside Haulage Contractor.
 - 6.5 If any vehicle of PBL or of its Haulage Contractor is not permitted by the Client or its agents or servants or by any other person to unload once it has arrived at the delivery address for any reason whatsoever, PBL reserves the right to charge standing time for the vehicle and/or the transport cost to either offload the material locally or return to the point of collection.
 - 6.6 If the Client fails to take delivery of the Goods or fails to give PBL adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Client's reasonable control or by reason of PBL's fault) then, without prejudice to any other right or remedy available to PBL, PBL may:
 - 6.6.1 Store the goods until actual delivery and charge the Client for the reasonable costs (including insurance) of storage; or
 - 6.6.2 Sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Client for the excess over the price under the Contract or charge the Client for any shortfall below the price under the Contract.
 - 6.7 Unless prior arrangement is made with PBL any vehicle instructed to leave the public highway to effect delivery does so at the risk of the Client.
- 7.0 Risk and Property
 - 7.1 Risk of damage to or loss of the Goods shall pass to the Client at the time of delivery or, if the Client wrongfully fails to take delivery of the Goods, the time when PBL tendered delivery of the Goods.
 - 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of the Conditions, the property in the Goods shall not pass to the Client until PBL has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by PBL to the Client for which payment is then due.
 - 7.3 Until such time as the property in the Goods passes to the Client, the Client shall hold the GOODS as PBL's fiduciary agent and bailee, and shall keep the Goods separate from those of the Client and third parties and properly stored, protected and insured and identified as PBL's property. Until that time the Client shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to PBL for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Client and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
 - 7.4 Until such time as the property in the Goods passes to the Client (and provided the Goods are still in existence and have not been resold), PBL shall be entitled at any time to require the Client to deliver up the Goods to PBL and, if the Client fails to do so forthwith, to enter upon any premises of the Client or any third party where the Goods are stored, and reposes the Goods.
 - 7.5 The Client shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of PBL but if the Client does so all moneys owing by the Client to PBL shall (without prejudice to any other right or remedy of PBL) forthwith become due and payable.
8. Liability
 - 8.1 Subject as expressly provided in the Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
 - 8.2 Any claim by the Client which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Client), be notified to PBL within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after delivery of the defect or failure. If delivery is not refused, and the Client does not notify PBL accordingly, the Client shall not be entitled to reject the Goods and PBL shall have no liability for such defects or failure, and the Client shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
 - 8.3 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to PBL in accordance with these Conditions, PBL shall be entitled to replace the Goods (or the part in question) free of charge or, at PBL's sole discretion, refund to the Client the price of the Goods (or a proportionate part of the price), but PBL shall have no further liability to the Client.
 - 8.4 Except in respect of death or personal injury caused by PBL's negligence, PBL shall not be liable to the Client by reason of any representation, or any implied warranty, condition or other terms, or any duty as common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of PBL, its employees or agents or otherwise) which arise out of or in connection with supply of the Goods or their use or resale by the Client, except as expressly provided in these Conditions.
 - 8.5 PBL shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of PBL's obligations in relation to the Goods, if the delay or failure was due to any cause beyond PBL's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond PBL's reasonable control:
 - 8.5.1 Act of God, explosion, flood, fire, or accident.
 - 8.5.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 8.5.3 Acts, restrictions, regulations, byelaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority.
 - 8.5.4 Import or export regulations or embargoes.
 - 8.5.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of PBL or a third party);
 - 8.5.6 Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 8.5.7 Power failure or breakdown in machinery.
9. Insolvency of Client
 - 9.1 This clause applies if:
 - 9.1.1 The Client makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
 - 9.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client; or
 - 9.1.3 The Client ceases, or threatens to cease, to carry on business; or
 - 9.1.4 PBL reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.
 - 9.2 If this clause applies then, without prejudice to any other right or remedy available to PBL, PBL shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Client, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
10. General
 - 10.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
 - 10.2 No waiver by PBL of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.
 - 10.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
 - 10.4 The Contract shall be governed by the laws of England.