

BLAGG & JOHNSON LIMITED

CONDITIONS OF SALE



1. INTERPRETATION

1.1 In these Conditions:

“Buyer” means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller;

“Goods” means the goods which the Seller is to supply in accordance with these Conditions;

“Seller” means Blagg & Johnson Limited (registered in England under number 1023248)

“Conditions” means the terms and conditions of sale set out in this document and includes any other terms and conditions agreed in writing;

and

“Contract” means the contract for the purchase and sale of the Goods;

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.

2. BASIS OF THE SALE

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, 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 Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing by the Seller.

3. ORDERS AND SPECIFICATIONS

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until acceptance is communicated.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, and description of the Goods shall be those set out in the Seller’s quotation (if accepted by the Buyer) or the Buyer’s order (if accepted by the Seller). (Subject to clause 6.3.)

- 3.4 The Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.
- 3.5 In the absence of the Buyer supplying detailed specifications, the Seller will apply its own engineering specifications/standards.
- 3.6 No contract may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Seller as a result of cancellation.

4. PRICE OF GOODS

- 4.1 The price of the Goods shall be the Seller's quoted current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier accepted by the Buyer, after which time they may be altered by the Seller.
- 4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost due to any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3 Except as otherwise stated, under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis.
- 4.4 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
- 4.5 The cost of packaging pallets and containers will be charged to the Buyer in addition to the price of the Goods.

5. TERMS OF PAYMENT

- 5.1 The Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 5.2 The Buyer shall pay the price of the Goods within 30 days after the end of the month in which the Goods were invoiced.
- 5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

- 5.3.1 cancel any outstanding contracts or suspend any further deliveries to the Buyer; and
- 5.3.2 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of five per cent above HSBC Bank plc's base rate from time to time until payment in full is made.
- 5.4 If the Seller invokes the terms of sub-clause 5.3.1, then the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Seller as a result of such cancellation.

6. DELIVERY

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises within 14 days after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.3 The Seller reserves the right to supply up to 5% more or less than the quantity ordered for deliveries of rolled sections and to charge for the quantity supplied.
- 6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

7. RISK AND PROPERTY

- 7.1 Risk of damage to or loss of the goods shall pass to the buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 7.2 Notwithstanding delivery and the passing of risk in the Goods the property in the Goods shall not pass to the Buyer until the Seller has received in cleared funds payment in full of the price of the Goods and all other sums due and payable by the Buyer to the Seller.
- 7.3 Until the property in the Goods passes to the Buyer, the Buyer shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property.
- 7.4 Until such time as the property in the Goods passes to the Buyer the Seller shall be entitled at any time to require the Buyer to deliver the Goods to the Seller and, if the

Buyer fails to do so forthwith, to enter upon any premises of the Buyer and repossess the Goods.

8. WARRANTIES AND LIABILITY

- 8.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with the specification and will be free from defects in material and workmanship at the time of delivery.
- 8.2 The above warranty is given to the Seller subject to the following conditions:
- 8.2.1 the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
- 8.2.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse or alteration or repair of the Goods without the Seller's approval.
- 8.3 Subject as expressly provided in these Conditions, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 8.4 Any claim by the Buyer which is based on any defect in the Quality or condition of the Goods or their failure to correspond with specification shall be notified to the Seller within 7 days from the date of delivery or where the defect or failure was not apparent on reasonable inspection within 7 days after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 8.5 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 the Seller in accordance with these Conditions, the Seller shall be entitled at the Seller's sole discretion, to replace and / or repair the Goods (or the part in question) free of charge or refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.
- 8.6 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at 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 which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer.
- 8.7 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control.

9. INSOLVENCY OF BUYER

9.1 This clause applies if:

- 9.1.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order of (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, administrator receiver or administrator is appointed of any of the property or assets of the Buyer; or
- 9.1.3 the Buyer ceases or threatens to cease to carry on business; or
- 9.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

- 9.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, 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 other party at its registered office or principal place of business of 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 the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.3 The Contract shall be governed by and construed in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts.