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Terms and Conditions of Sale

Business Policies

All orders are subject to our full terms and conditions (below). Nothing in these conditions affects your statutory rights as a consumer.

Standard conditions of sale

Definitions

"Buyer" means the person who buys or agrees to buy the Products from the Seller. "Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller. "Delivery date" means the date specified by the Seller when the Products are to be delivered. "Products" means those goods specified. "Price" means the price for the Products including carriage, packing and VAT. "Seller" means ABACA LIMITED. "Consumer" shall bear the meaning ascribed in Section 12 Unfair Contract Terms Act 1977.

Conditions applicable

Nothing in these conditions shall affect the buyer's statutory rights as a consumer. The Seller shall sell and the Buyer shall purchase the products in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written or verbal order of the Buyer which is accepted by the Seller including but not limited to orders placed using the Seller's electronic online ordering service, subject in any 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 is purported to be made, by the Buyer. Any typographical or clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

If any provision of these conditions is adjudged invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of those provisions in question shall not be affected.

The Price and payment

Save as provided otherwise herein the Price shall be that as stipulated in the Seller's published price list current at the date of order of the Products. Any event of any increase in the cost to the Seller of raw materials, labour, overheads, or any increase in taxes or duties, or any variation in exchange rate the Seller may increase the Price payable under the contract upon written notice. If the Seller gives notice of a price increase, the Buyer shall have the right to cancel the order and receive back any sum paid for undelivered product. The Seller must receive notice of cancellation in writing within seven days of receipt of the notice of a price increase to the Buyer. Payment of the Price shall be due at the date of the order. Time for payment shall be of the essence. If the Buyer has not paid the Price on notification of shipment the Seller may bring an action for the Price even though property in the Products has not been passed to the Buyer. If the Buyer fails to make payment as required the Seller may suspend delivery of the Products or any further Products ordered until payment is made in full. Interest on overdue invoices shall accrue from the date when payment becomes due from day to day at the rate of 4% above Barclays Bank Plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgement until payment is received.

The Products

The quantity and description of the Products shall be set out in the Seller's quotation. The Seller may make any changes in the specification of the Products which do not materially affect their quality or performance required to conform with any applicable statutory requirements where the Products are supplied to the Seller's specification. Photographs and line drawings are for illustrative purpose only, and may not exactly match the product itself.

Warranties and liability

All goods supplied by the Seller come with a manufacturer's warranty of 12 months or more. Please see our Guarantee for details. In the event of a claim, the Buyer shall in the first instance contact the Seller's customer service department. Except where the Buyer acts as a Consumer all other warranties, conditions and terms relating to fitness for purpose, satisfactory quality or conditions of the products whether implied by statute or common law or otherwise are excluded to the fullest extent of the law. Insofar as is permitted by law, the Seller's only liability to the Buyer under these terms and conditions will be, at its sole discretion, to make good any shortage or nondelivery, to replace or repair any goods which are received by the Buyer in a damaged or defective state or to refund the Buyer any sums actually paid for the goods in question. The Seller will not be liable to the Buyer for any indirect or consequential loss or damage arising out of any problem notified to the Seller and will have no liability for any failure or delay in delivering goods or any damage or defect in goods delivered which is caused by any event or circumstance which is beyond the Seller's reasonable control. Nothing in this clause affects the Buyer's statutory rights as a consumer.

Delivery, Returns and Cancellations

Delivery of the Product shall be made by the Seller or his agent notifying the Buyer that the Products are available for collection at the Seller's premises or for delivery to such place as the Buyer may specify at the time the order is placed. The Seller shall use his reasonable endeavours to meet any date agreed for delivery. In any event time of delivery shall not be of the essence. The Seller shall not be liable for any delay in delivery howsoever caused. All orders will be subject to a delivery charge and the Buyer will be notified of this in advance of the order being accepted. Generally, where an order contains more than one item all items will be delivered at the same time once all items are available. Where a delivery date has been agreed with the Seller's carrier but the Buyer is not present to receive the delivery the Seller reserves the right to charge the Buyer a minimum of £25 to cover part of the cost of the failed delivery. If the Buyer is dissatisfied with his purchase for any reason he may, within 7 days of delivery, contact the Seller's customer service department to arrange for collection of the goods at the Buyer's expense. This option does not apply to Product customised to the Buyer's specific needs and requirements. Any money, which the Buyer has paid, will be refunded within 30 days provided that the Seller receives the goods in their original packaging and same condition as at the time of delivery to the Buyer. Items, which are not adequately packaged at time of collection, will not be collected and a charge of £25 will be levied to cover the cost of the failed collection. Mattresses can only be returned if they are unopened. Mattresses which have been opened and slept on cannot be returned. If the Buyer wishes to test a mattress it must be kept wrapped until the Buyer has made a decision on its suitability.

Acceptance of the products

The Buyer shall be deemed to have accepted the Products 7 working days after delivery to the Buyer. After acceptance the Buyer shall not be entitled to reject Products which are not in accordance with the contract.

Title and risk

Risk of damage to or loss of the Products shall pass to the Buyer upon delivery. Notwithstanding any other provision herein title in the Products shall not pass to the Buyer until the Seller has been paid in full. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain the property of the Seller, but if the Buyer does so all monies owing to the Seller shall (without prejudice to any other right or remedy on the Seller) immediately become due and payable.

Insolvency of Buyer

This clause applies if:

The Buyer 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 purposes of amalgamation or reconstruction) or a receiver is appointed to any of the property or assets of the Buyer, or The Buyer, not being a consumer, ceases, or threatens to cease, to carry on business, or 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. If this Clause applies, 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 Seller, and if the Products have been delivered but not paid for the Price shall become immediately due and payable despite any previous arrangement or agreement to the contrary.

General

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to strikes, lock outs, accidents, war, fire, reduction in or unavailability of power at the Seller's premises or its manufacturing plant, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

Any notice required or permitted to be given by either party to the other under these conditions shall be in writing and in the case of notices to the Seller, addressed to the Seller at its registered office or in the case of notices to the Buyer, at the Buyer's address as provided to the Seller.

Headings

The headings of the Clauses in these conditions are intended for reference only and will not affect the construction of these conditions.

Representations

No statement, description, warranty condition or recommendation contained in any catalogue, price list or advertisement or communication or made verbally by any of the Agents or Employees of the Seller shall be construed to enlarge, vary or override in any way thereof any of these conditions.

Additional costs

The Buyer agrees to pay for any loss or extra cost incurred by the Seller through the Buyers instructions or lack of instructions or through failure or delay in taking delivery or through any acts or default on the part of the Buyer, its servants, agents or employees.

Proper law of contract

This Contract shall be governed by the law of England and Wales and any dispute question or remedy howsoever arising determined exclusively by the Courts of England and Wales.

Dated: 1 December 2008.