

Terms & Conditions of Business



CONDITIONS OF SALE

1. INTERPRETATION

In these Conditions:-

- "Buyer" means the person whose order for the Goods is accepted by the Seller.
- "Contract" means the contract for the purchase and sale of the Goods governed by these Conditions.
- "Goods" means the Goods (including any installment) which the Seller is to supply in accordance with the Contract.
- "Seller" means Rapid Action Packaging Limited or R A Pacaisti Teoranta.

2. QUOTATIONS

- (a) Quotations are subject to confirmation by the Seller on receipt of orders.
- (b) All prices quoted or accepted are exclusive of any applicable value added tax which the Buyer shall be liable to pay to the Seller.

3. TERMS OF PAYMENT

- (a) The Buyer shall pay the price of the goods in cash or cleared funds within 30 days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract and the Buyer will have no right of set off.
- (b) 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:-

- (i) charge the Buyer interest (both before and after any judgment) on the amount unpaid at the rate of 2.5% per month until payment in full is made;
- (ii) treat the Contract as repudiated by the Buyer and claim damages accordingly; and suspend any further deliveries to the Buyer.

4. VARIATION

- (a) The Contract cannot be cancelled by the Buyer except with the written agreement of the Seller on terms which fully indemnify the Seller.
- (b) No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

5. DELIVERY

- (a) If the Contract provides for a single bulk delivery without specifying a date the Goods shall be delivered and accepted within 14 days of their being ready.
- (b) If the Contract provides for deferred bulk deliveries all deliveries shall be accepted within 2 months of the specified first delivery or availability date.
- (c) If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy of the Seller, the Seller may store the Goods at the Buyer's risk until actual delivery and charge the Buyer for the costs (including insurance) of storage.
- (d) Each bulk delivery shall constitute a separate contract and any failure or defect in any one delivery shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- (e) Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence.

6. QUANTITY VARIATIONS

- A shortage or surplus of the Goods charged pro rata not exceeding 10% will be deemed to be due performance of the contract by the Seller. Where delivery is to be by installments then, for the purposes of this clause, these installments shall be aggregated.

7. SKETCHES ETC

- All sketches and original work and printing plates, cutting and creasing dies or tooling shall remain the property of the Seller.

8. BUYER'S REQUIREMENTS, PRINTING & CONSTRUCTION

- (a) The Seller reserves the right to increase the price of the Goods for alterations from original copy on and after first proof including alterations in style of construction.
- (b) Proofs of all work may be submitted for the Buyer's approval and no liability will be accepted by the Seller for any errors in proofs passed by the Buyer.
- (c) 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.

- (d) The Buyer shall be solely responsible for any matter which the Seller prints on the Goods on the instructions or at the request of the Buyer, for any design or construction which the Seller executes on the instructions or at the request of the Buyer whether the same shall have been supplied by the Seller or by the Buyer and for any claim or proceedings made or brought by a third party arising therefrom including for infringement of any copyright, design, trade mark or other industrial or intellectual property rights and 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 such claim or proceedings.

9. CLAIMS AND LIABILITY

- (a) Complaints or claims based on any defect in the quality or condition of the Goods or their failure to correspond to specification will only be entertained by the Seller if lodged by the Buyer within 7 days of receipt of the Goods or, if related to the transport of the Goods, within such time as will enable the Seller to comply with the time limit and procedure of the relevant carriers. If the Seller is not notified accordingly the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- (b) The Seller shall not accept the return of the Goods unless the Seller or its authorised representatives shall first have had the opportunity of examining the same.
- (c) Where any valid claim is made by the Buyer in accordance with this clause the Seller shall be entitled to replace the Goods or, at the Seller's sole discretion, 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.
- (d) Subject as expressly provided in these Conditions all warranties, conditions or other terms implied by the statute or common law are excluded to the fullest extent permitted by law.
- (e) 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 or profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, except as expressly provided in these Conditions.

10. BUYER'S PROPERTY

The Buyer's property when supplied will be held by the Seller at the Buyer's risk. The Seller will take every care to secure the best results where materials are supplied by the Buyer but the Seller shall accept no liability for any defect in the Goods caused directly or indirectly by defects in or unsuitability of materials supplied by the Buyer.

11. MATERIAL

Whilst the Seller will make every endeavour to supply material in accordance with the quality of samples submitted or quoted for, the Contract is not a contract of sale by sample.

12. FORCE MAJEURE ETC

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 control including, without prejudice to the generality of the foregoing, any Act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party), import or export regulations or embargoes, difficulties in obtaining raw materials, labour, fuel, parts or machinery or power failure or breakdown

in machinery.

13. TERMINATION

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 arrangement or arrangement to the contrary, if:-

- (a) the Buyer makes any voluntary arrangement 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; or
- (b) a distress or execution is levied or enforced upon any property of the Buyer and is not paid out or discharged within 14 days; or
- (c) an encumbrancer takes possession or a receiver is appointed of any of the Buyer's undertaking, property or assets; or
- (d) the Buyer ceases, or threatens to cease, to carry on business or to pay its debts as and when they fall due; or
- (e) 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.

14. BAR CODING

When applying the EAN Symbol or any other code on packaging the Seller undertakes to apply the symbol or code to the relevant specifications and to respect the general requirements for application of the symbol or code but the Seller shall not be liable in respect of the readability of the symbol or code.

15. RISK AND PROPERTY

- (a) All risk of damage to or loss of the Goods shall pass to the Buyer on delivery.
- (b) Notwithstanding delivery and the passing or risk in the Goods or any other provision of these Conditions the property in the Goods shall not pass to the Buyer until the Seller 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 the Seller to the Buyer for which payment is then due.
- (c) Until such time as the property in the Goods passes to the Buyer the Seller shall hold the Goods as the Seller's fiduciary agent and bailee (but without imposing any liability on the Seller to any third party) and 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. Until that time the Buyer shall be entitled to re-sell or use the Goods in the ordinary course of its business but shall account to the Seller 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 monies or property of the Buyer and third parties and in the case of tangible proceeds properly stored, protected and insured.
- (d) Until such time as the property in the Goods passes to the Buyer (and provided that the Goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- (e) The Buyer shall not be entitled to pledge or any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

16. OTHER CONDITIONS OF SALE

The Buyer shall, by ordering the Goods from the Seller, be deemed to have accepted that these Conditions shall govern the Contract to the exclusion of any other terms and conditions contained on or in any letter, acceptance form, receipt or the like received by the Seller. No person in the employment of or acting in any way as an agent of the Seller has the authority to vary these Conditions.

17. GOVERNING LAW

The construction, validity and performance of the Contract shall be governed by the laws of England and the parties hereby submit to the non-exclusive jurisdiction of the English Courts.

CONDITIONS OF PURCHASE

1. INTERPRETATION

In these Conditions:-

- "Contract" means the contract for the purchase and sale of the Goods governed by these Conditions.
- "Goods" means the Goods (or any of them) specified on the Purchaser's purchase order whether materials, fabricated products or services.
- "Purchaser" means Rapid Action Packaging Limited or R A Pacaisti Teoranta.
- "Seller" means the person, firm or company to whom the purchase order is addressed.

2. DELIVERY

- (a) The Goods shall be delivered to the Purchaser to the place and by the date specified in this order and in the event of their not being so delivered, time being of the essence of the Contract, then without prejudice to any other rights or remedies of the Purchaser the Goods shall at the Purchaser's option be delivered by passenger train or other express service at the Seller's cost.
- (b) The Goods shall be accompanied by a delivery note stating the order number of this order.

3. TERMS OF PAYMENT

- (a) The price of the Goods shall be the sum specified in this order and shall include costs of packing, carriage or delivery unless itemised separately.
- (b) The Purchaser shall not be liable to pay for the Goods unless the order number is stated on the relevant invoice which is substantiated by a delivery note signed by an authorised representative of the Purchaser as proof of acceptance of the Goods.
- (c) The Purchaser shall pay for the Goods by the end of the second month following that of delivery. Payment by the Purchaser shall not constitute any admission as to the performance by the Seller of its obligations and shall not constitute a waiver of any of the Purchaser's rights.

4. PROPERTY AND RISK

The property and risk in the Goods shall pass to the Purchaser on delivery at the address specified in this order but without prejudice to any right of rejection.

5. CONFIDENTIALITY

Any information concerning the business secrets and dealings of the Purchaser shall be treated as confidential and shall not be disclosed to any third party.

6. HAZARDS AND REGULATIONS

The Seller shall inform and keep the Purchaser informed of all hazards and regulations (statutory or otherwise) which the Seller knows or believes to be associated with the use, handling, storage, labelling and transport of the Goods.

7. SELLER'S DEFAULT

It shall be a condition of the Contract that the Goods will conform to the requirements of this order in all respects (and in particular as to quantity, quality, fitness, description and specification, and samples supplied, if any) and with any statements or undertakings made by the Seller or its servants or agents prior to the giving of the order. If the Seller fails to complete this order strictly according to such requirements, or in accordance with these Conditions, or if the Goods (or any of them) supplied shall be defective upon delivery or shall prove to be defective within 12 months of delivery, then the Purchaser may call upon the Seller (but without prejudice to any other rights it may have, including the right to reject the Goods and to purchase them from a third party) to rectify the defects or replace the Goods (at the Purchaser's option) at the Seller's own expense. All obligations in this clause shall further apply to any such rectified or replacement goods. The Seller shall reimburse the Purchaser with any additional costs which it may suffer as a result of any such failure or defect, and shall indemnify the Purchaser against any and all actions, proceedings, damages, costs, claims, demands and expenses whatsoever, whether direct or consequential, resulting therefrom.

8. ACCEPTANCE AND VARIATION OF CONDITIONS

- (a) These Conditions shall apply to all the Purchaser's orders for the purchase of the Goods except to the extent that they are varied by the express written terms of this order. If the terms and conditions stated in the Seller's acceptance of this order or any other communication of the Seller relating to this order are inconsistent with these Conditions or contain a provision purporting to override these Conditions, the Seller shall be deemed to have accepted these Conditions if it supplies goods in compliance or purporting compliance with this order.
- (b) No variation to these Conditions or specifications contained in this order will be permitted by the Purchaser unless such variation shall have been approved in writing by an authorised representative of the Purchaser.

9. SEPARATE DELIVERIES

Where the order is for the sale of the Goods by a number of separate deliveries the Purchaser shall be entitled at its option to treat a breach by the Seller under clause 7 in respect of any delivery either as a breach of contract in respect of that delivery only, entitling the Purchaser to cancel the order in respect of that delivery, or as a breach of contract affecting the whole order, entitling the Purchaser to cancel the whole order.

10. DESIGN AND TOOLS

All blue-prints, designs, drawings and instructions supplied by the Purchaser and all tools, dies, jigs, moulds and the like specially manufactured in connection with the order (whether supplied by the Purchaser or not) for the manufacture of the Goods, shall be the Purchaser's property and shall be surrendered to it on demand. The Seller shall not furnish any third party with any goods made in accordance with the Purchaser's blue-prints, designs, drawings or instructions.

11. INDEMNITY

The Seller shall indemnify the Purchaser against all actions, proceedings, damages, costs claims, demands and expenses whatsoever in respect of loss of life, personal injury or damage to property resulting, either directly or indirectly, from any defect in the Goods or from compliance with any instructions given by the Seller in connection therewith or from the execution of any work covered by the order, unless such loss of life, personal injury or damage to property is directly and exclusively attributable to the Purchaser's sub-contractors of the Purchaser's employees.

12. CANCELLATION OF ORDER

The Purchaser shall be entitled to cancel this order by written notice and without prejudice to the recovery of any damages and expenses incurred by the Purchaser and without liability to the Seller if:-

- (a) the Seller makes a voluntary arrangement 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; or
- (b) a distress or execution is levied or enforced upon any property of the Seller and shall not be paid out or discharged within 14 days; or
- (c) an encumbrancer takes possession or a receiver is appointed of any of the Seller's undertaking property or assets; or
- (d) the Seller ceases, or threatens to cease, to carry on business or pay its debtors as and when they fall due; or
- (e) the Purchaser reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly. In any other event the Purchaser shall be entitled to cancel this order at any time by giving written notice to the Seller in which event the Purchaser shall be bound to pay a reasonable price for any work already completed but shall otherwise be from liability.

13. INTELLECTUAL PROPERTY

The Seller warrants that the Goods and the use thereof do not infringe any patent, registered design, unregistered design, copyright, trade mark or trade name. The Seller shall indemnify the Purchaser against all losses, damages, expenses, costs or other liability arising from any claims made against the Purchaser for infringement or alleged infringement of any third party's intellectual property or any other proprietary rights in the Goods, the processes of manufacture thereof, or the use thereof.

14. SELLER'S BREACH

Without prejudice to any other remedy available to the Purchaser under these Conditions or at law the Seller shall indemnify the Purchaser against all actions, proceedings, damages, costs, claims, demands and expenses, whatsoever, whether direct or consequential, arising out of any breach by the Seller of any of the Seller's warranties herein contained.

15. GOVERNING LAW

The construction, validity and performance of this Contract shall be governed by the laws of England and the parties hereby submit to the non-exclusive jurisdiction of the English courts.