

TERMS AND CONDITIONS OF SALE

Attention is drawn to the Terms and Conditions set out below. They are binding on all customers and govern the sale of goods/services by Normanton Laminating Services Limited

1. DEFINITIONS

In these terms and conditions (the "Conditions")

"Normanton" means Normanton Laminating Services Limited (Company number: 13921189 whose registered office is at: Lincoln Road, Pocklington Industrial Estate, Pocklington, York YO42 1NR.

"Buyer" means the person, firm or company with whom the Contract is made by Normanton;

"Contract" means the contract for the sale of the Goods by Normanton to the Buyer;

"Goods" means any item of whatever nature or part thereof or service which is to be sold or supplied by Normanton pursuant to the Contract;

"Order" means the order placed by the buyer for the Goods; and

"Price" means the price of the Goods.

2. ORDER AND ACCEPTANCE

2.1 The contract shall be formed by Normanton's written acceptance of the Order. Unless expressly varied by Normanton in writing these Conditions apply to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order or similar document.

2.2 All quotations and tenders issued by Normanton are provisional and may be withdrawn by Normanton at any time, or altered to take account of any changes taking place between the date of the quotation or tender and the Contract in the price of raw materials, rates of wages and other costs of production, or in the buyer's specification, construction or design or in the event of the Order being for part only of the quantity referred to in the quotation or tender.

2.3 Orders are accepted by Normanton subject to availability of products and raw materials from suppliers required to fulfil an Order.

3. CANCELLATION

3.1 The Contract may only be cancelled by the Buyer with Normanton's prior written consent when Normanton shall be entitled to invoice the Buyer for all the Goods provided to the date of cancellation and all costs incurred by Normanton as a result of such cancellation.

4. THE GOODS

4.1 The Buyer acknowledges that it has not relied upon Normanton's skill, knowledge and judgement in deciding whether or not the Goods are suitable for the Buyer's purpose.

4.2 Where the Buyer has specified that the Goods shall be of a certain colour or size, such specification shall be subject to reasonable commercial variation.

5. PRICE AND ADDITIONAL COSTS

5.1 The Price shall be as notified by Normanton to the Buyer on acceptance of the order. The Price excludes Vat which is payable in addition by the buyer at the rate prevailing on the date of delivery.

5.2 The Price is based on, among other things, materials, labour, freight, haulage, and transport costs and import duties, currency exchange rates and levies, insurance premiums and statutory obligations applying at the date of Normanton's acceptance of the Order. If before delivery there is an increase, howsoever arising, in the cost to Normanton of supplying the Goods, Normanton shall be entitled to alter the Price by such amount as is reasonable to take account of these increases.

5.3 All quotations to shipbuilders are made on the assumption that the yard is a registered one and that goods will be admitted free from import duty. Any duty required to be paid by Normanton will be recoverable from the Buyer.

5.4 The Price is based on the spot exchange rate quoted in London between the pound sterling and the currency of the country of origin of the Goods at the date of the Contract. In the event of there being a variation of plus or minus 3% in the rate of exchange prior to the Goods being shipped as evidenced by the Bill of Lading Date, then the Price is subject to re-negotiation as it shall also be in the event of any change in the registration regulations and terms of conditions relating to the importation of Goods into the United Kingdom. If agreement cannot be reached, either the Buyer or Normanton have the right to cancel without any claim by either against the other but without prejudice to any accrued rights.

6. PAYMENT

6.1 The time of payment of the Price shall be of the essence.

6.2 The Price shall be deemed to become due immediately upon the commencement of any act or proceedings in which the Buyer's insolvency is involved.

6.3 Payment shall be due on or before the end of the month immediately following the month of delivery unless Normanton has given prior written agreement as to extended terms and such terms are shown on the invoice relating to the Goods.

6.4 Without prejudice to the other rights it may have Normanton is entitled to charge interest on overdue payments at the rate of 4% per annum above the base rate from time to time of National Westminster Bank plc calculated on a daily basis until payment in full is received.

6.5 Invoices that are incorrect must be returned to Normanton as no alteration can be made at settlement.

7. WARRANTIES AND LIABILITY

7.1 Subject to the conditions set out below Normanton warrants that the Goods will correspond with their specification at the time of delivery and will be free from obvious defects in material and workmanship at the time of delivery.

7.2 Normanton shall be under no liability under the above warranty

7.2.1 in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer.

7.2.2 in respect of any defect arising from wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Normanton's instructions, (whether oral or in writing), misuse or alteration or repair of the Goods without Normanton's approval;

7.2.3 if the Price for the Goods has not been paid by the due date for payment;

7.2.4 if the Buyer is unable to establish to the satisfaction of Normanton complete identification of the Goods.

7.2.5 if the Goods have been stored in wet, damp or otherwise unsatisfactory conditions following delivery to the Buyer's premises or those of the Buyer's agent;

7.3 The above warranty does not extend to parts, material or equipment not manufactured by Normanton in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to Normanton.

7.5 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 Normanton in accordance with these Conditions, Normanton shall be entitled to replace the Goods (or the part in question) free of charge or, at Normanton's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the Price), but Normanton shall have no further liability to the Buyer.

7.6 Except in respect of death or personal injury caused by Normanton's negligence, Normanton shall not be liable to the Buyer, by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of Normanton, 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, and the entire liability of Normanton under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

8. TRANSFER OF PROPERTY

8.1 The Goods are at the Buyer's sole risk (and the Buyer shall insure the Goods to their full value) from the occurrence of the first to occur of any of the following events:

8.1.1 the passing of property in the Goods to the Buyer as provided for in this condition 8 below;

8.1.2 the physical delivery of the Goods to the Buyer's place of business by Normanton;

8.1.3 the physical delivery of the Goods to the buyer's carrier or to an independent carrier for the purpose of transmission to the Buyer or his nominee;

8.1.4 the physical delivery of the Goods to the Buyer at Normanton's premises;

8.1.5 the expiry of the rent free period referred to in Condition 9.4;

8.2 Property in the Goods shall remain with Normanton until; (a) payment in full has been made to Normanton for all monies owing in respect of all Goods delivered under the Contract; and (b) no other sums whatever shall be due from the Buyer to Normanton.

8.3 Until property in the Goods passes to the buyer it shall hold the Goods (at no cost to Normanton) in a fiduciary capacity for Normanton in a manner which enables them to be identified as the Goods of Normanton and the Buyer shall immediately return the Goods to Normanton should it so request.

8.4 The Buyer grants Normanton an irrevocable licence to enter at any time any vehicle or premises owned or occupied by the buyer or in its possession for the purpose of repossessing and removing any Goods the property in which vests in Normanton. Normanton shall not be responsible for and the buyer will indemnify Normanton against any liability in respect of damage caused in such repossession and removal being damage it was not reasonable practicable to avoid.

8.5 Notwithstanding Condition 8.2 the Buyer shall be entitled to offer for sale and sell the Goods at the best obtainable price in the ordinary course of its business PROVIDED THAT such entitlement to resell and use the Goods shall automatically terminate upon notice by Normanton or upon the occurrence of any of the events under Condition 12. Any such sale or dealing shall be a sale or use of Normanton's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal. The Buyer shall hold any claim against sub-buyers in respect of such sales on trust for Normanton. Normanton shall be legally and beneficially entitled to the proceeds of sale and the entire proceeds of sale or otherwise of the Goods shall be held in trust for Normanton and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as Normanton's money.

9. DELIVERY

9.1 Delivery of the Goods shall be made in accordance with the Contract by Normanton (or its agents) delivering to a place agreed by the parties or by the Buyer (or its agent) collecting the Goods at any specified time agreed by Normanton (or its agents) at Normanton's designated premises.

9.2 Where delivery is made by Normanton or its agents the Buyer will provide safe and proper means of access to the Buyer's delivery points. If the Buyer fails to provide suitable means or facilities for the reception and unloading of the Goods Normanton shall be entitled to withhold delivery and/or to charge the Buyer for any additional costs and time thereby incurred or spent by Normanton.

9.3 Normanton shall use reasonable efforts to meet delivery dates, but dates for delivery are estimates only and delivery is subject to performance by Normanton's own suppliers and haulage contractors. Normanton shall not be liable to the Customer for any loss or damage, whether direct, indirect or consequential by reason of delay, in whole or in part, in delivering the Goods. The Goods may be delivered by Normanton in advance of the quoted delivery date upon giving reasonable notice to the Customer.

9.4 If the Buyer refuses or fails to take delivery of the goods on the date of delivery, Normanton may store the Goods at the Buyer's risk for a rent free period of 14 days. After such rent free period the Buyer shall pay all costs and expenses of such storage and any additional costs of carriage incurred (including rent at the rate charged by Public Dock Authorities in the area) and if the Buyer fails to take delivery after 14 days following the date of delivery Normanton may rescind the Contract and sell the Goods to a third party.

9.5 If the Buyer intends to collect the Goods then at least 24 hours' notice should be given to Normanton or its storers prior to collection.

9.6 Unless the Contract otherwise provides Normanton shall be permitted to deliver by instalments. Where the Goods are delivered in instalments, each instalment shall constitute a separate contract to which these Conditions shall apply.

9.7 Normanton shall not be liable for non shipment, non delivery, damage or delay arising from circumstances beyond their complete control. Should shipment be delayed beyond the time stipulated, the Buyer shall have the right to cancel such part of the contract as does not comply with the stipulated shipment dates but only if they give due notice in writing to Normanton in time to enable them to notify shippers or suppliers by cable before the goods or materials are despatched from the mill. Should Buyer's cancellation instructions be received by Normanton after the goods or materials have left the mill, Normanton should notify Buyers to this effect within seven days from the receipt of Buyer's cancellation instructions. Cut sizes and cut sizes sold in sets, which have been manufactured before receipt at the mill of telegraphic cancellation instructions, must be accepted by the Buyer providing the specification is supplied promptly and the goods or materials despatched within 21 days. If cut sizes are sold in sets, the Buyer shall only be required to accept complete sets. All forward sales are made subject to safe arrival in the United Kingdom.

10. INDEMNITY

10.1 The Buyer shall keep Normanton fully and effectually indemnified against all costs claims, demands, expenses and liabilities of whatsoever nature and wheresoever arising, including, without prejudice to the generality of the foregoing, claims for damage to property and consequential loss (including loss of profit) which may be made against Normanton or which Normanton may sustain, pay or incur arising out of or in connection with the incorrect fitting, installation or use of the Goods save where the same is caused solely by the negligence of Normanton.

10.2 Where Goods are made to the buyer's specification the buyer undertakes full responsibility for the suitability and accuracy of the specification and undertakes to fully indemnify Normanton against any loss, expense or other liability suffered by Normanton as a result of any infringement of patent, registered design, trade mark, trade name or copyright which it may incur by reason of such infringement in any country.

10.3 Where any work is to be carried out by Normanton in connection with the installation, repair, servicing or testing of the Goods the Buyer shall make all necessary preparations and provide suitable and safe access, protection of the Goods from the time of delivery and all equipment, materials, facilities and labour required to enable Normanton to perform its obligations and the Buyer undertakes to fully indemnify Normanton against any loss, expense or other liability suffered by Normanton as a result of any breach of this Condition.

11. FORCE MAJEURE

11.1 If Normanton is prevented from fulfilling any order within a reasonable time by reason of force majeure or any cause beyond its reasonable control including, without prejudice to the generality of the foregoing, war, threat of war, riots, civil commotion, act of God, government, terrorists activities, strikes, lockouts, industrial action, accident, technical problems with transportation, natural disaster, storm, flood, fire, earthquake, delay in delivery to Normanton of any Goods or materials or interruption of transport, Normanton shall be under no liability to the buyer and shall be entitled at its option (to be notified in writing to the Buyer) either to cancel the Contract or without any liability, to extend the time or times for delivery or otherwise performing of the Contract by a period at least equivalent to that during which such delivery or performance has been extended by any of the restrictions hereinbefore referred to.

12. DEFAULT AND BUYER'S INSOLVENCY

12.1 Normanton may terminate the Contract or cancel any outstanding delivery or stop any Goods in transit (without prejudice to other remedies) if:

12.1.1 the Buyer breaches any of its obligations under these Conditions or under any Contract to which these Conditions apply; or

12.1.2 there is any delay in making payments due under any Contract to which these Conditions apply; or

12.1.3 any distress, execution or other legal process levied upon the Buyer's property; or

12.1.4 the Buyer makes or offers to make any arrangement or composition with its creditors or commits any act of bankruptcy or if any petition or receiving order is presented or made against the Buyer or, if a company, any resolution or petition to wind it up or to appoint an administrator shall be passed or presented or a receiver manager or administrative receiver of all or any of its assets shall be appointed; or

12.1.5 the financial standing of the Buyer shall in the reasonable opinion of Normanton become impaired or unsatisfactory.

13. ASSIGNMENT

13.1 The Contract is personal to the Buyer and the Buyer shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

13.2 Normanton may assign or transfer any of its rights or sub-contract any of its obligations under the Contract.

14. NOTICE

14.1 Where under any of these Conditions, notice is required to be given by either party to the other, such provision shall be satisfied by a written, typed notice signed by a person authorised by the relevant party and transmitted either by post, telex or facsimile to the Registered Office of such party where it is a Company and to the address notified to Normanton where the Buyer is unincorporated.

15. NO WAIVER

15.1 No waiver by either party of any breach, default or omission in the performance or observance of any part of these conditions or the Contract is, or shall be deemed to be a waiver of similar breaches, defaults or omissions or a waiver of any other breach default or omission hereunder.

16. ENTIRE AGREEMENT

16.1 The Contract contains the entire agreement and understanding of the parties with respect to its subject matter and supersedes all prior agreements written or oral with respect thereto and any modification will be binding only if it is in writing signed on behalf of Normanton and specifically refers to these Conditions being modified.

17. ILLEGALITY

17.1 In the event that any of these Conditions is found invalid, and/or unenforceable by any court or tribunal or competent jurisdiction, the remainder of the Conditions shall remain valid and enforceable according to its terms.

18. CHOICE OF LAW, ARBITRATION

18.1 Any dispute arising under the Contract shall be referred to an arbitrator or arbitrators to be appointed by the parties or in default of agreement by the President of the Law Society for the time being and his or their decision shall be binding on both parties and this shall be a submission to arbitration within the Arbitration Act 1996 or any subsisting statutory modification thereof or substitution therefor.